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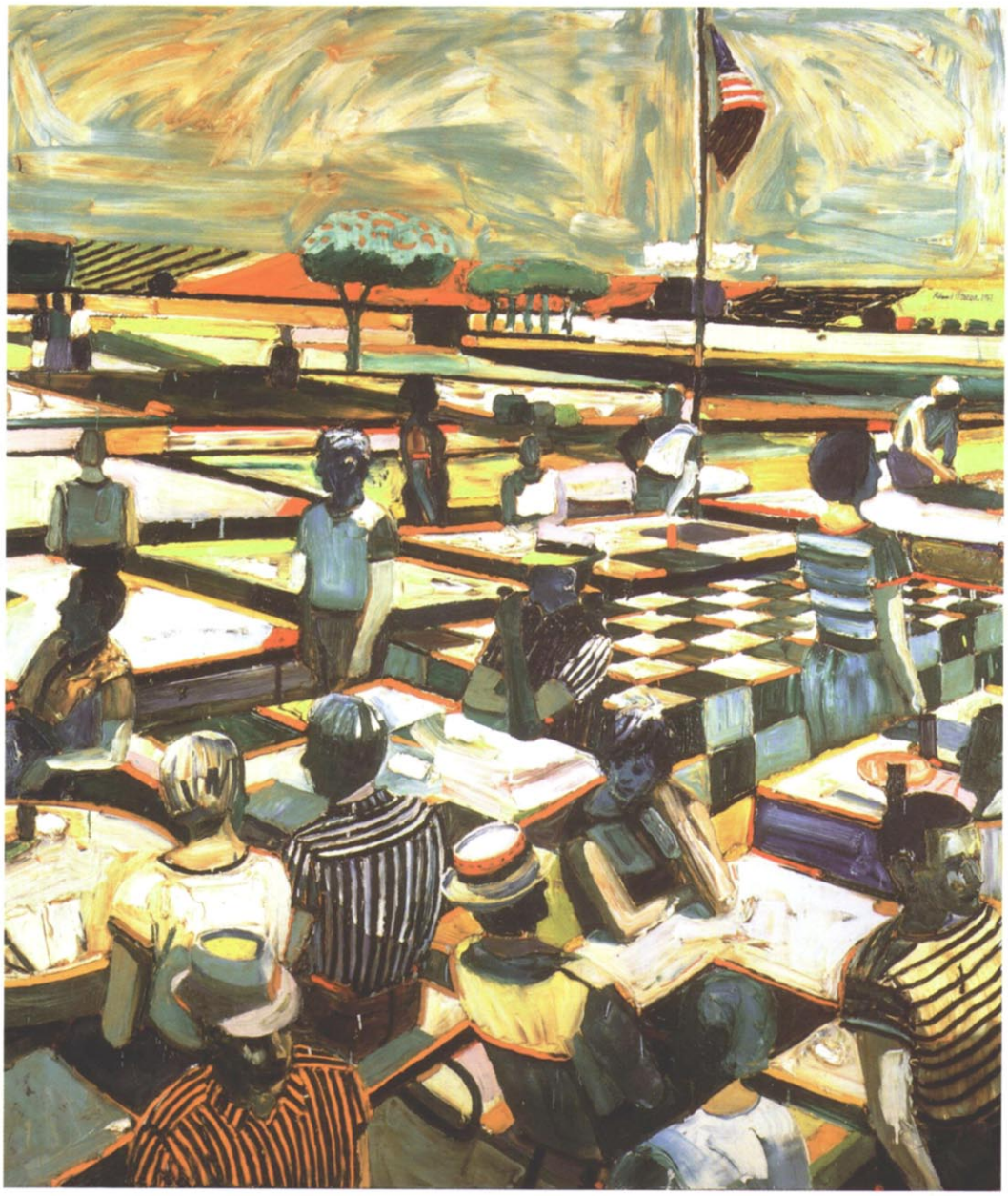

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Tort reform
Richard Riordan
Legislative Pensions

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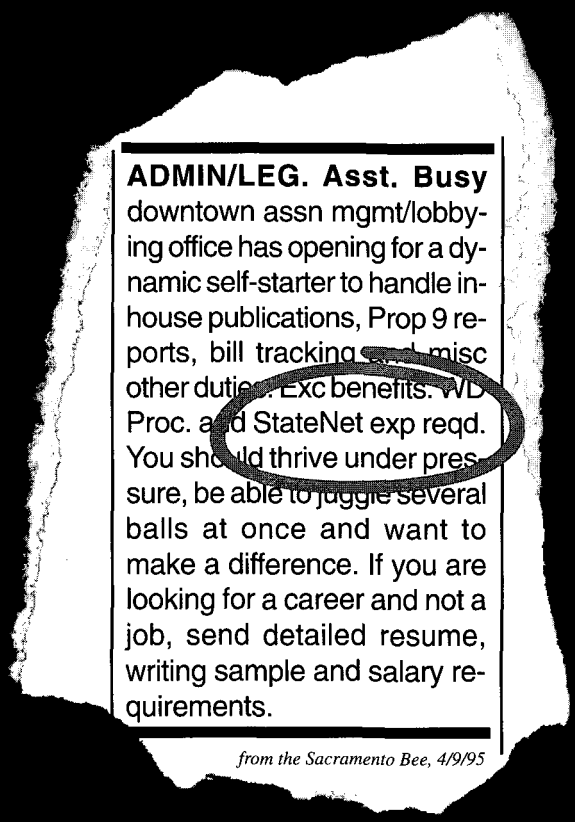
Tools for Today's lobbyist....



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JUNE 1995
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As an on-going feature of *California Journal's* 25th anniversary year, we will present issues of importance to California's future. This month, we present a pair of essays on two growing sections of the state's population — children and senior citizens.

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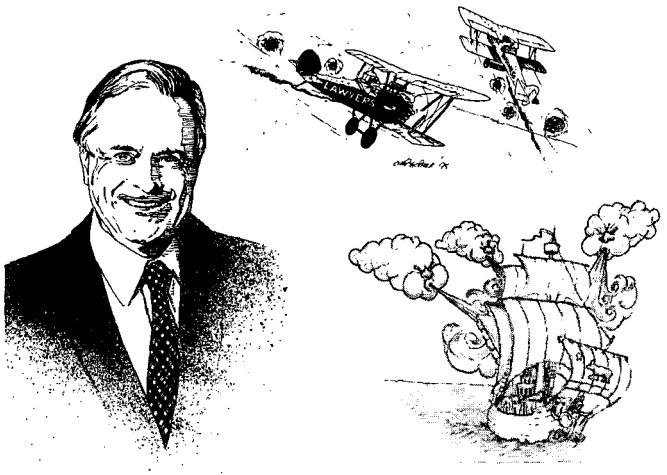

Cover: An American Picnic with 21 Figures (1967) by Roland C. Petersen. Courtesy of the Crocker Art Museum, Sacramento. Petersen was born in Denmark in 1926 and moved to California four years later. Trained at UC–Berkeley, the Hans Hofman School of Art and the San Francisco Art Institute, he began his teaching career at UC–Davis in 1956. Shortly thereafter, he began using the vibrant form of landscape painting represented on the cover.

The Crocker Art Museum is located at 216 O Street in downtown Sacramento. The Museum is open Wednesday through Sunday from 10:00 AM to 5:00 PM, and Thursday evenings until 9:00 PM. Please call (916) 264–5423 for further information.

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Up Front

UMBRAGE

Objection of the month. When Assemblyman Dan Hauser (D–Arcata) presented what appeared to be an innocuous little bill in Assembly Water, Parks and Wildlife last month, he and other committee members were taken aback by an objection from rookie Assemblyman Brian Setencich (R–Fresno). Setencich had no problem with the substance of the bill, which cleaned up 1994 legislation dealing with commercial crab fishing. No, Setencich objected to the bill *number–* – AB 666. When committee Chairman Dom Cortese (D–San Jose) tried to make light of Setencich's protest, the freshman lawmaker responded, "I know this sounds silly, but I'm serious." Setencich asked that the bill number be changed — a procedure, Hauser reminded him, that cannot be done in committee but must be cleared with the Assembly Clerk's Office. Cortese made vague references to seeking a change, then asked for a motion on the bill. It passed 8–1, with Setencich voting "aye."

One in, one out. Assemblyman Ted Weggeland, a two–term Republican from Riverside, has decided not to seek re–election in 1996, thus calling it quits one term early. It is said that Weggeland wants to return to the private sector and to spend more time with his family, which includes his first child, born July. As Weggeland bows out in Southern California, a familiar name has thrown his cap onto the field in the north. Steve Sax, who until last year made his living as a baseball player, announced recently that he'll run for the seat being vacated by Assemblyman David Knowles (R–Cameron Park), who is term–limited in '96. In announcing for the seat, Sax cast himself as a conservative Republican. A five–time all star and a catalyst on two Los Angeles Dodgers world championship teams, Sax may best be remembered for a perplexing defensive problem that plagued him at the height of his illustrious career — his mostly errant pegs to first base posed a safety hazard to everyone in the stadium but the first baseman.

None of this. Assemblywoman Jackie Speier (D–South San Francisco) thinks California voters don't have enough choices. At least, she thinks they ought to have at least one more choice when they go to the polls — "none of the above." As a result, the term–limited lawmaker introduced AB 17 earlier this year. The bill would have allowed voters to designate "none of the above" in general elections for constitutional and legislative offices. But Speier's colleagues don't seem to want to risk being defeated by an abstract idea, for AB 17 crashed and burned last month in Assembly Elections and Reapportionment. Had Speier's bill passed, and "none of the above" received more votes than any candidate in a particular election, no one could assume the office and subsequent elections would have to have been held until a candidate won a plurality. Speier claimed the concept behind her bill is supported "across the political spectrum" by figures as diverse as Ralph Nader on the left and Paul Weyrich on the right. She argued that the voters currently do not have a meaningful choice if they are angered by negative campaign advertising, which she called "a threat to democracy." The bill was defeated, with Speier the only "aye" vote. At the end of the hearing she asked for reconsideration, where she offered to amend the bill to make it non-binding. The bill was voted down again because it failed to get any Democratic support. Desperate to keep her effort alive, Speier then requested that the vote be expunged, but Assemblyman Cruz Bustamante (D–Fresno) withheld consent.

Shades of Alice Robb. Attention, candidates. If you've tried everything under the sun to win your elections — TV ads, mail, expensive consultants — to no avail, try the method first pioneered by Democrat Alice Robb. You remember Robb; she's the Lyndon LaRouche disciple who opposed former Assemblyman Paul Woodruff (R–Forest Falls) in AD 65 back in 1992. Robb didn't raise any money, didn't put up a yard sign, didn't campaign in any way. In fact, she spent the entire election cycle working for LaRouche in Pasadena — far from the Inland Empire district. Yet she still polled 40% of the vote against an incumbent Republican in a solid GOP district. Well, now comes a candidate who has gone Robb one better. Martin Pilgreen ran for an open seat on the community college board in the Los Angeles suburb of Glendale. A well–known high school principal, Pilgreen dropped out of the race this spring when his wife's health took a turn for the worse. His name remained on the ballot, however, because it was too late to have it removed. Pilgreen didn't campaign, raise money or show up at any forums. He even endorsed his opponent. But unlike Robb, Pilgreen actually won. With his wife's health improving, he's decided to serve on the board. The only explanation he has for his unusual victory is high name recognition. "I was the most surprised guy in town," he says.

"All you have to do to gain the people's favor is to give them something new every two months."

— Napoleon Bonaparte

Come across a blurb lately that's nosy, newsy or smart-alecky about California government, politics or politicians? Share it with the Journal. *We pay up to $25 for entertaining tidbits published in "Up Front." So, rush your items to Up Front, 2101 K Street, Sacramento, CA 95816. Sorry, submissions cannot be returned.*

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Two Cents Worth

COMMENTARY

A culture in conflict — armed

World War II in Europe ended 50 years ago last month, and America is busy gazing into the pools of its memory, recalling such places as Anzio, Normandy, Polesti, Bastogne, the Elbe and Dachau in search of an enduring lesson from the carnage that swept the European continent a half–century ago.

Into the midst of this reverie comes Lynn Macdonald's latest book, "1915: The Death of Innocence." Macdonald writes about the *real* origin of World War II — namely, World War I — and like her previous four volumes, the current work captures the dreadful blend of madness and gallantry that characterized The Great War in Europe. It is there, where bravado and ego and technology crashed together in terrible alliance, that the lessons are to be found — not for Bosnia, not for Rwanda, not for the Iraqi desert — but for the streets of California.

A singular feature of the European community in the years prior to World War I involved the quest for arms. Every nation–state, great and small, was hell–bent to increase its arsenal. Each felt that its security depended upon the size and displacement of its capital ships, the bore and range of its artillery, the number of bayonets it could thrust into the field, the bravado and elan of its infantry and cavalry. Alliances aside, the primary purpose for this accumulation of firepower was to protect each nation from its neighbors. "Safety through arms" could have been the *motto du jour.*

In the end, of course, no one was safe. In the end, the arming itself emboldened governments and monarchs, producing a reckless self–confidence and an impulse to use weapons rather than reason to resolve conflicts. The result was mindless violence on a scale that still overwhelms our imagination, eight decades after the fact. Today, we are stunned if 5000 refugees are gunned down outside a camp in Rwanda; we simply cannot fathom that 10 times that number of British soldiers were killed on the first day of the Battle of the Somme in 1916, that the battle lasted eight months and resulted in a million casualties.

There is a similar notion about wholesale arming circulating across the land these days — that somehow we are all safer if we are all armed. The gist of this message is delivered in a series of billboards posted around the state by the California Rifle and Pistol Association (CRPA). The billboards read, "Society is safer when criminals don't know who's armed." The same notion is embodied in two bills — SB 799 and AB 638 — being promoted by a pair of conservative Republicans — Senator Dick Monteith of Modesto and Assemblyman Pete Knight of Palmdale. Called the "Monteith–Knight Citizen Self–Defense Act," those bills would make it much easier for a person to secure a permit from local law–enforcement to carry a concealed weapon. The rationale for all of this comes from the fact that, as columnist Richard Reeves wrote last month, "...people no longer believe that the police (the government) can protect them from violence."

For the CRPA and many Californians, that belief is embedded in the notion that people protect themselves from violence by being prepared to deliver violence. And in some ways, it is difficult to argue with the assumptions that lay behind the push for Monteith–Knight. It is logical to assume, for instance, that your average felon–wannabe will be less likely to foist his crime on an innocent, law–abiding citizen if he knows that Mr. or Ms. Citizen may be packing a small pistol under his shoulder or in her handbag. Proponents cite Florida as an example of a state that makes it easier to pack, claiming that the Sunshine State has had a similar law on the books since 1987, that 266,710 permits have been issued, that only 470 of those permits have been revoked and that only 19 of the revocations involved a firearms–related incident.

But proponents of this wholesale arming seem to make another assumption — that felon–wannabes are the only folks who might be prone to use firepower to gain their ends. The logic behind this belief is iffy, at best. As David Hamburg, the respected president of the Carnegie Corporation of New York, recently wrote in an essay on conflict resolution, "The human species seems to have a virtuoso capacity for making harsh distinctions between groups and for justifying violence on whatever scale the technology of the time permits."

Conflict between groups often defines the culture of California streets these days. In this light, the assumption behind the Monteith–Knight proposal — that making it easier for members of groups to pack concealed weapons somehow promotes safety — defies logic. Urban gangs are but one example of "groups," and we have all seen what happens when guns are introduced into the culture of a gang–infested inner city.

There are groups in conflict scattered all over California: pro–lifers vs. pro–choicers, African–Americans vs. Koreans, "new" Asians vs. "old" Asians, anti–vivisectionists vs. medical researchers, foresters vs. environmentalists, sheriff's deputies vs. sheriffs, *ad nauseum.* Increasingly, these conflicts seem to manifest outside the boundaries of reason and compromise. What would happen outside an abortion clinic, for example, if demonstrators from both sides were packing concealed handguns? Would you feel safer attending an anti–death penalty rally on the grounds of the state Capitol if you knew that any number of so–called "law–abiding" citizens in the crowd might be toting firepower? As Oklahoma City illustrated, the level of violence advances with technology and availability.

World War I exposed the kind of impulses that surface in an armed culture, and these impulses rarely promote safety. Before we plunge headlong down this road, we ought to explore the answer to a fundamental question: Is individual man any more or less a creature of his nature than collective man?

Florida may be lucky rather than wise.

— *A.G. Block*

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Rostrum
LETTERS

Kathleen Connell

With regards to the article where you compare Kathleen Connell (see *CJ*, April 1995) to moderate Republicans on the East Coast, please note that William Weld is governor of Massachusetts, not Pennsylvania.

ALAN FRIEDENTHAL
North Hollywood

Ron Packard

Mark Petracca was wrong when he asserted that Ron Packard first won his congressional seat as a primary election write-in candidate (see "Rostrum," *CJ*, April 1995). As the campaign consultant for that historic write-in effort, I would like to know where Mr. Petracca came up with that nonsense — as would Congressman Packard and the thousands of volunteers who worked in the campaign. To set the record straight, there were 21 candidates (including 18 Republicans) who filed for the June 1982 primary. Congressman Packard finished second in the Republican primary — less than 100 votes behind the millionaire nominee. A few weeks following that primary, nearly all of the GOP challengers (as well as thousands of residents from the district), begged Packard to run a write-in campaign in the November general election. Packard honored that request and launched a great campaign, despite the numerous hurdles, including nominees in both major parties and not having his name printed on the ballot. Add to that the fact that Orange and San Diego counties, which comprised the old 43rd Congressional District, had different regulations governing write-in procedures.

MICHAEL EGGERS
District Director
Congressman Ron Packard

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Some good has come from this change. For instance, natural gas prices for consumers have gone down and supplies and competition have gone up.

But along with the good, comes the bad. Competition has led to a pursuit of "bypass" through new interstate pipelines, taking customers away from utilities and thus increasing the costs of service to remaining customers. In California, gas pipeline over-capacity has soared, resulting in the possibility of consumers paying for capacity they may never use.

There's not a level playing field. Gas utilities are still burdened with many social obligations: to provide special rates to low income consumers, keep prices down artificially, and comply with all kinds of California state regulatory requirements. Interstate pipelines are immune to such pressures as they need answer only to a federal agency with different rules.

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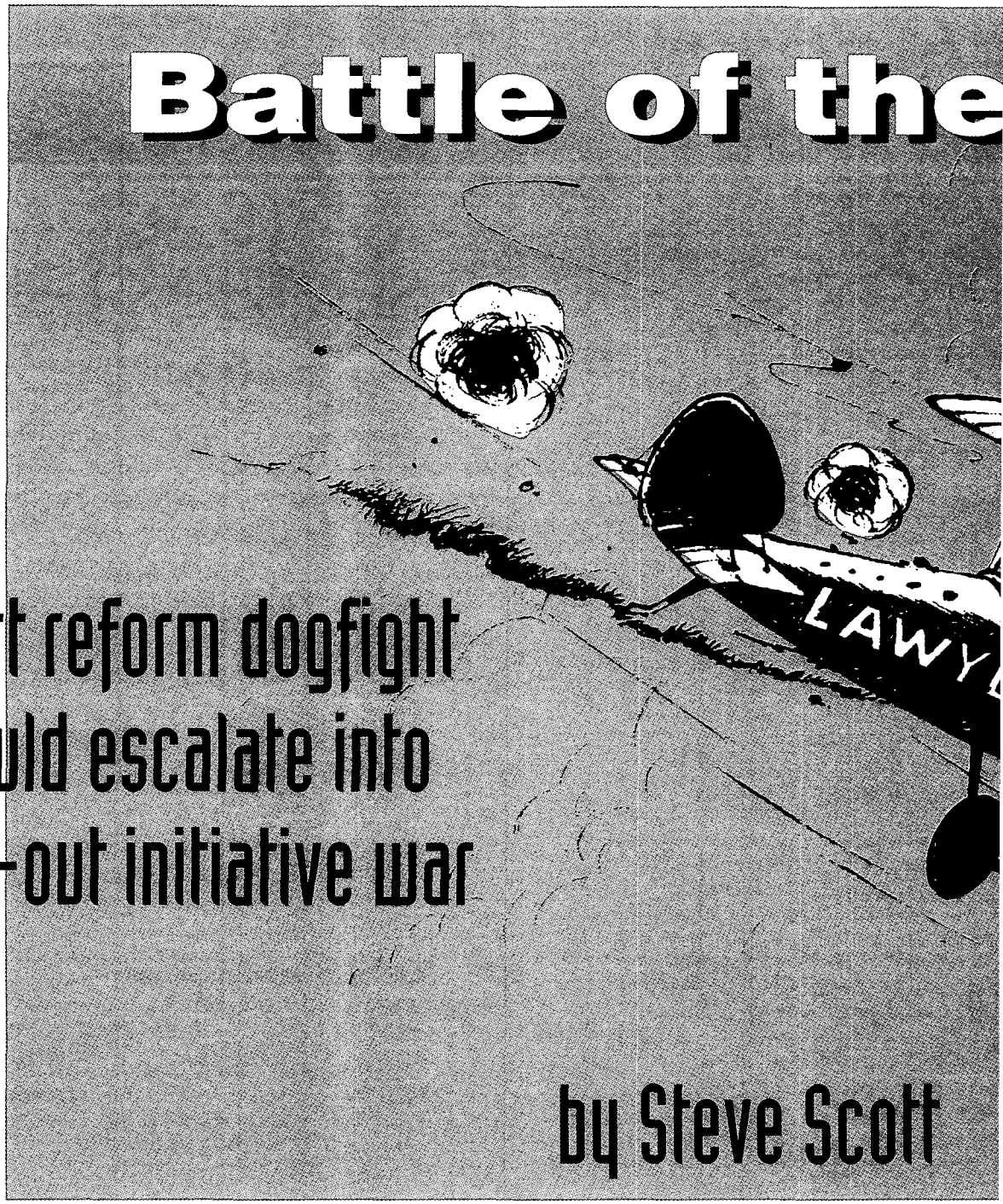

Tort reform dogfight could escalate into all-out initiative war

by Steve Scott

Some years back, the *New Yorker* magazine published a wryly funny piece written in the guise of a legal brief in a federal product liability suit. The plaintiff in this "lawsuit" was one Wile E. Coyote, a "super genius" known for his relentless pursuit of a certain, supersonic roadrunner. The defendant was equally renowned: The ACME Corp. and its subsidiaries, manufacturers of a complete line of products to assist coyotes in their search-and-consume missions. In the action, "Mr. Coyote" claimed to be the victim of ACME's "willful negligence" because of chronic design flaws in such products as Rocket-Powered Roller Skates, Instant Tornadoes, and Dehydrated Boulders. The plaintiff claimed ACME's defective products had caused him considerable pain and suffering, not to mention leaving him in the shape of an accordion, and demanded both economic and punitive damages.

A "Coyote v. ACME" lawsuit would hardly be the strangest thing to emerge from the alternate universe of a Road Runner cartoon. To critics of the civil litigation system in California, however, reality can be as loony as any "Looney Tune" ever devised in the Warner Bros. animation factory. The latest push to re-vamp the state's liability — or tort — laws has been largely driven by tales of avaricious trial lawyers, gullible juries, and huge awards for seemingly frivolous cases. Defenders of the system

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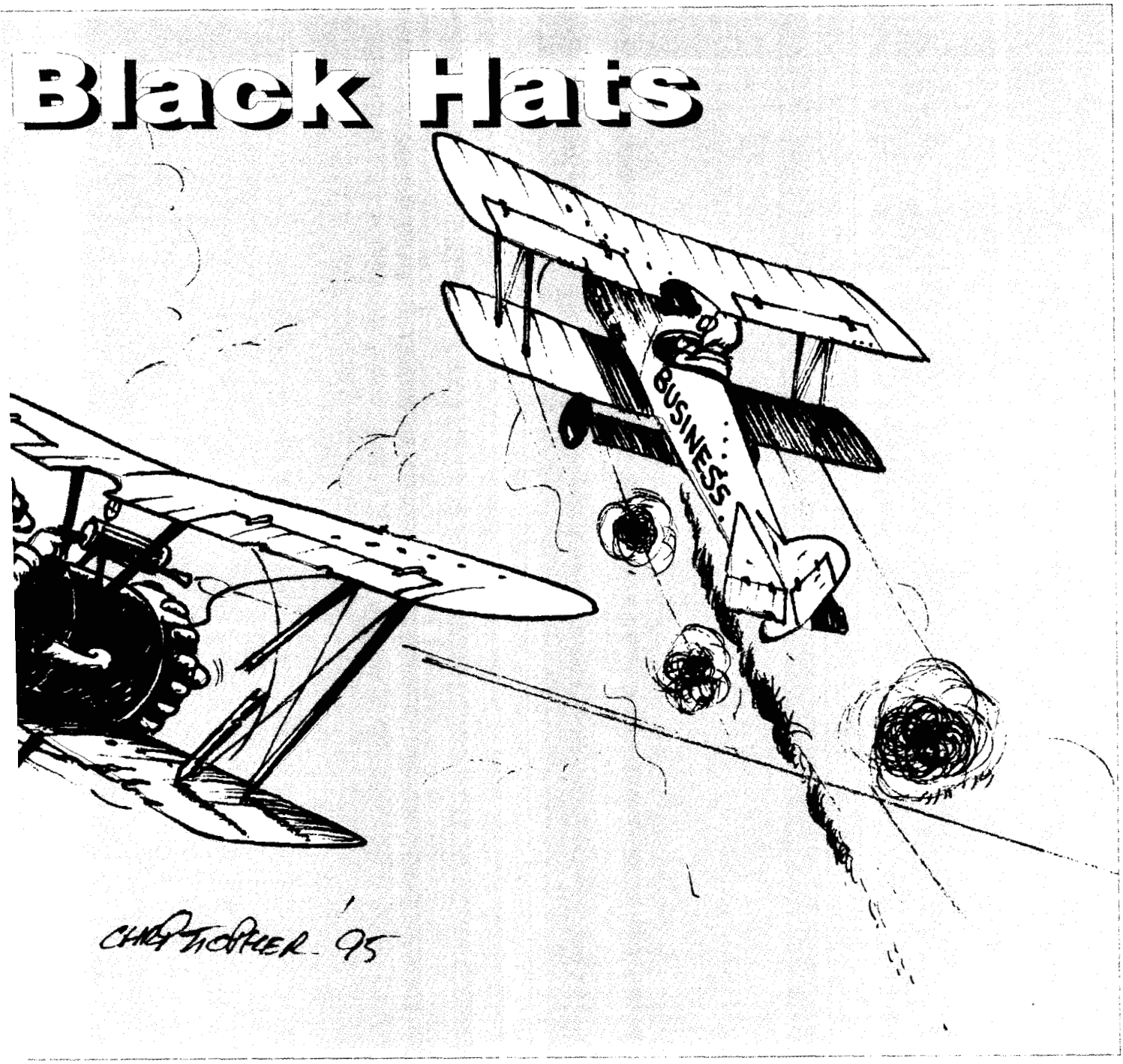
Black Hats



say such tales are the sound and fury that masks an agenda bent on preserving the bottom line at the expense of consumers' rights. Usually, these battles have taken place in the paneled confines of the state Capitol. This year, however, a full-blown public debate has broken out in Sacramento and Washington, and could culminate next March with an initiative war, like that in 1988 involving insurance initiatives.

"Fasten your seat belt," warned one official close to the debate. "This is going to be big."

What is wrong with the legal liability system? Well, according to businesses and insurance companies, it boils down to too many lawsuits with not enough merit seeking too much in damages. Civil litigation lawyers, they argue, encourage people to sue over the slightest gripe, seeking huge punitive damage settlements. Nine times out of ten, they claim, companies wind up settling these "nuisance claims" because it's cheaper than defending themselves in court. "There is no meaningful financial disincentive to filing frivolous lawsuits right now," says Mike Carpenter, vice president of the Association for California Tort Reform (ACTR). "If you can extort a nuisance settlement by filing a frivolous claim, you'll do it."

When cases do go to trial, tort-system critics say highly publicized damage awards are creating a "lottery mentality" among jurors and would-be defendants. A survey of recent awards in California, conducted by the San Francisco-based Pacific Research Institute, showed a more than six-fold increase in the average punitive damage award between 1984 and 1994. "Juries now think less of giving a large award," says PRI research director Steven Hayward. The end result of all

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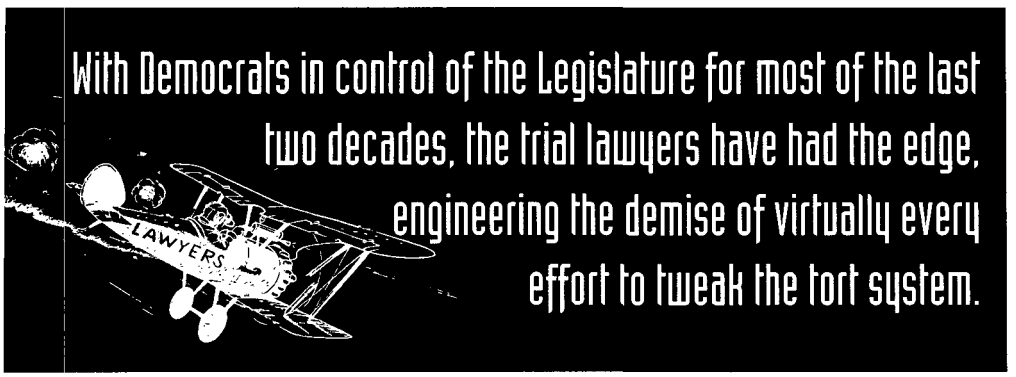
this litigation, claim the tort reformers, is higher product costs for consumers. Carpenter says the "lawsuit tax" costs every Californian $300 a year in higher prices for goods and services. Business leaders also claim the tort system stifles new innovation, as new start-up companies risk being victimized by the legal profession's guerrilla tactics.


With Democrats in control of the Legislature for most of the last two decades, the trial lawyers have had the edge, engineering the demise of virtually every effort to tweak the tort system.
LAWYERS

"One-third of all small businesses in this state have been threatened by lawsuit," says Martyn Hopper with the National Federation for Independent Business. "Small businesses are being dragged into these lawsuits just because they sell something."

Opponents of tort reform, namely the trial lawyers and most mainstream consumer organizations, give little quarter to their business and insurance opponents. To begin with, they dispute the premise that there are too many lawsuits, pointing to a report by the Judicial Council of California that suggests lawsuit filings have stabilized, and actually declined over the past few years. Indeed, the PRI study cited above indicates the number of cases involving large punitive damage awards had been steady throughout the late '80s and early '90s. In the case of "nuisance settlements," tort-reform critics claim it is the settlements, not the lawsuits, that cause the problem.

"If they are just writing off [nuisance suits], shame on them," says author Wesley J. Smith, who is writing a book on the tort system with consumer advocate Ralph Nader. "That just invites more frivolous lawsuits."

Tort-reform opponents also dispute allegations that the civil litigation system adds to the cost of products, saying legal expenses account for only a fraction of most companies' total cost of doing business. They also note that California's reputation as a Mecca for litigation hasn't stopped it from also being a Mecca of new-product innovation, particularly in Silicon Valley. Rather than a concern about product costs, critics claim the real intent of tort reformers is to eliminate the contingency-fee system, in which lawyers are paid a percentage of any settlement if they win the case. The real agenda, they say, to make it more difficult for ordinary consumers to have their day in court.

"The business community does not want to be held accountable, that's the problem," says Harry Snyder, western regional co-director of Consumers Union. "The business community's desire to reform torts is as un-democratic and un-American as their desire to 'buy' legislative and elected officials."

Until last year, the tort reform debate was largely the province of those who prowl the halls of the Capitol. Although contingency fees were the subject of an unsuccessful 1988 initiative (Proposition 106), the most celebrated "tort reform" in the state's history has been the 1987 "napkin deal," in which special interest lobbyists arranged a behind-the-scenes truce at a restaurant across the street from the state Capitol. The basic outline of the compromise was scribbled on a cocktail napkin, which was later publicly displayed by Senator Bill Lockyer (D-Hayward) on the floor of the Senate.

At the core of these legislative debates are a web of well-heeled interest groups, each proclaiming themselves to be Luke Skywalker and their opponents Darth Vader. Those pushing tort reform primarily consist of the insurance industry and businesses—large and small, but mostly large. These interests have traditionally been among the larger donors to political campaigns, tending to favor Republicans over Democrats. On the other side are the trial lawyers, consistently among the top donors to legislative campaigns in Sacramento. The attorneys have almost exclusively favored Democratic lawmakers. With Democrats in control of the Legislature for most of the last two decades, the trial lawyers have had the edge, engineering the demise of virtually every effort to tweak the tort system. The political climate changed suddenly in November of 1994, however, when Republicans scored sweeping gains both nationally and in California. The new Republican congressional majority made tort reform part of its "Contract with America."

At the same time the political sands were shifting, some seemingly unusual damage awards started popping up in the news. The most infamous of these was the McDonalds coffee case in New Mexico, where a woman who scalded herself trying to balance a cup of coffee while driving sued McDonalds for making its coffee too hot. She was awarded $2.7 million, although the award was reduced substantially on appeal. Grass-roots organizations, such as the Citizens Against Lawsuit Abuse, have begun their own public information campaigns, trumpeting cases of robbers suing the banks they've robbed and car thieves suing the owners of the cars they've stolen.

With tort reform suddenly gaining some populist appeal, Gov. Pete Wilson has offered his own tort-reform legislative package, decrying "a plague of lawsuits...leeching the creative energy and capacity of even our high-tech economy." The cornerstone of Wilson's plan is a bill capping punitive damages—awards designed to punish the losing party—at three times economic damages, which are the direct harm to the victim. The bill also gives judges, rather than juries, responsibility for setting punitive damages. Other bills would limit lost-wages collections in wrongful-termination suits, and require that judges award attorneys' fees to parties who are subjected to frivolous lawsuits or filings. Wilson is also proposing a system that would require that parties in any lawsuit agree to try mediation before going to a trial.

"The thrust of the governor's proposals is to have clear standards based on a common-sense approach," said Dan Kolkey, Wilson's legal affairs secretary.

According to the state's trial lawyers, however, Wilson's proposals have more to do with dollars and cents than common sense. "It's a political payoff to the large corporations and insurance companies that bankrolled his campaign," says Wayne McClean, president of the Consumer Attorneys of California, the organization formerly known as the California Trial Lawyers Association. Punitive damage

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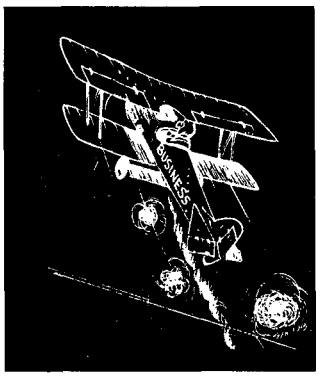
limitations, McClean argues, would encourage companies to keep dangerous products on the market, since the profits would outweigh the potential legal risk. As for the tales of lawsuit abuse, attorneys argue their opponents are trying to legislate by anecdote, rather than with hard evidence.

"What they don't tell you about the McDonalds' case is that there were 700 other cases of terrible burns that McDonalds knew about," says consumer activist Smith. "Jurors went into that case saying 'Why are you suing over a cup of coffee?'" They came out incensed at McDonalds' insensitivity."

So far, the governor's proposals have met with the same stony disinterest that has greeted them in past years. Most of the significant bills have been placed on hold, and likely won't come up before next year. While some tort-reform advocates see promise in the possibility of a Republican majority in the Assembly, others have turned to the ballot for their redemption. Their efforts have raised the very real specter of an expensive, acrimonious initiative war.

The early leader in the charge toward the ballot is the ambiguously named Alliance to Revitalize California. Organized by Intuit co-founder Thomas Proulx and his one-time business software competitor Andrew Tobias, the alliance has three initiatives in circulation for the March 1994 ballot. One would limit contingency fees to 15 percent of the total award in cases settled quickly. In more complicated cases, lawyers would be able to collect more than 15 percent only on the amount above any settlement offered in the case. A second initiative would adopt the so-called "loser pays" provision for class action lawsuits involving securities purchases and suits in which shareholders claim malfeasance by the directors or officers of a company. The third initiative opens what perhaps is the biggest can of worms in the whole tort-reform debate by instituting a pure no-fault system for auto insurance.



"Consumers have as much of an interest in tort reform, probably even a greater interest, than the business community," says Mike Johnson, a one-time "Nader raider" who is managing the alliance's campaign. "They get hit with some of the highest costs of the existing tort system — the cost of auto insurance."

The alliance initiatives mirror elements of the governor's tort-reform package, particularly in their bid to enact no-fault car insurance. Still, most of the Sacramento-based lobbying organizations have reacted coolly to the measures, seeing the Legislature's new mood as offering more potential than a costly initiative campaign. "I don't think the initiative process of late has established a good track record for making good law," says Jim Snyder, president of the Personal Insurance Federation of California. ACTR has also eschewed any official involvement in the initiatives. Not only are the initiatives' sponsors not discouraged by this lack of public support, they

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actually seem to like it. "While the chamber is there in Sacramento pursuing its interests, and the governor is backing [the chamber's] agenda, there isn't anybody out there who is fighting for tort reform proposals that consumers have an interest in," says Johnson.

On the other side, the trial bar's response was not only to get mad, but to try to get even. The CAOC recently submitted its own counter-initiative for the March ballot. The attorneys' proposal would enact a series of truth-in-labeling provisions for contingent-fee arrangements between lawyers and clients—much of it reflecting current law. Hidden in the fine print are provisions making any legislation to restrict the size of contingent fees illegal, and specifically invalidating the alliance's contingent-fee measure. McClean makes no apologies for the cancelling provision, saying his opponents' initiative takes "a mean-spirited shot at the heart of consumer rights."

In addition to the trial lawyers' counter-initiative, the alliance's actions also have sparked consumer activists to redouble their own defense of the tort system. Nader and Prop. 103 author Harvey Rosenfield have threatened their own counter-initiatives targeting professional fees and corporate profits. In defending the tort system, however, consumer activists have found themselves in their own uncomfortable alliance with the trial lawyers. Attorneys' already-poor public image has been further eroded recently by the machinations in the O.J. Simpson case and their own ham-handed attempts at boosting their public relations. The decision by the California Trial Lawyers Association to change its name to the Consumer Attorneys of California was ridiculed not only for being a cosmetic contrivance, but also because it easily produced a rather unpleasant acronym: CACA. Consumers Union's Snyder dubbed the trial lawyers "the gang that couldn't shoot straight," but Smith argues the attorneys' self-imposed image problems are being used by tort-reform advocates to deflect attention away from their own malevolence.

"The entire move to restrict rights in the civil justice system is driven not by people but by big businesses with a lot of money," says Smith.

How far these initiative efforts will wind up going is anyone's guess. Both sides have the wherewithal to get their proposals qualified, even though the alliance faces a bill of up to $2 million to get all three of its measures on the ballot. While big business has so far taken a hands-off approach to the process, that could change if it isn't successful in moving legislation in Sacramento or if tort-reform efforts in Washington fall short of its goals. What is certain is that a lot of campaign money will be changing hands over the next year and a half among lobbyists, legislators, and campaign managers. The only thing consumers and voters can expect from all that spending is an endless parade of high-priced hucksters on both sides cooing, "Trust me, I'm your friend."

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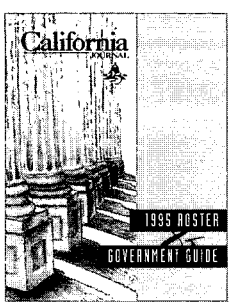

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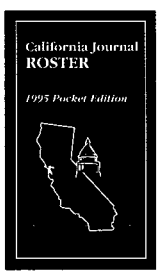

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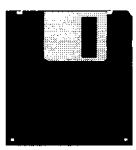

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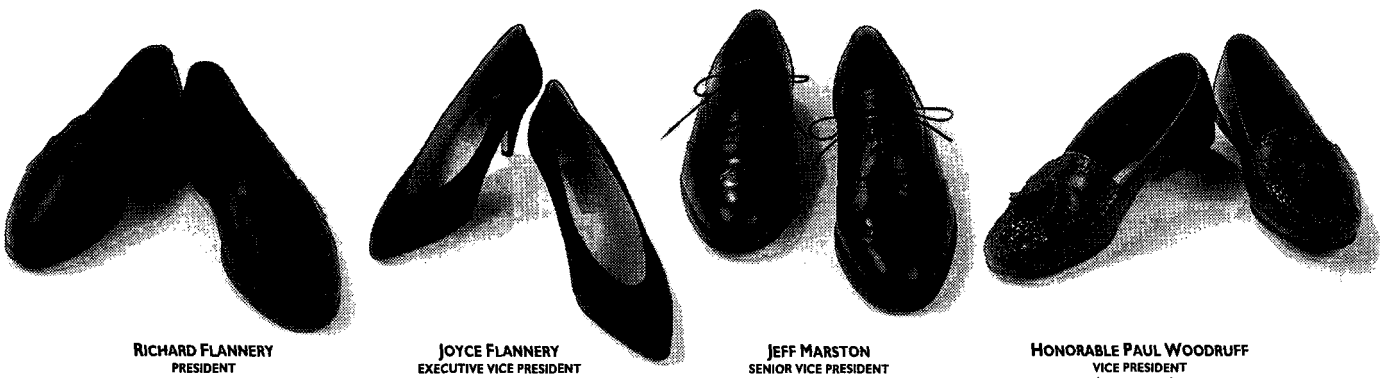

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Soapbox
OPINION

By Anthony M. Platt

Rigging the Game for Racism

Only one generation ago, the United States was a country of institutionalized white supremacy. "Two societies, one black, one white," in the words of the Kerner Report, "separate and unequal." The civil–rights movement gave us some pioneering legislative, legal and regulatory victories and the formal repudiation of a segregated public life. Real teeth were added to President John Kennedy's 1961 affirmative–action policy with passage of the 1964 Civil Rights Act, with Supreme Court decisions ordering tough remedies to undo racism, and with the establishment of hiring goals and timetables during the administration of Richard Nixon.

But the civil–rights movement entailed much more than government policies and court cases. It also educated millions about the history and consequences of racism, and mobilized the powerless to make the most of their newly won rights. Moreover, it helped to create an anti–racist political culture that resonated with deep moral authority, and it brought many activists into the machinery of government to ensure that anti–racist policies were put into practice. As Alice Walker observed, "It gave us hope for tomorrow. It called us to life."

Thirty years later, it is a cruel irony that the only places where racial equality for most African Americans — if we look only at the population of color whose struggle dominated the civil–rights movement between World War II and Vietnam – – has been fully realized is on death row, in prison or in the trenches of war. And now the new Congress and its political allies around the country want to turn back the clock to the good old, pre–civil rights days. Until recently, the debate between advocates of multiculturalism and critics of political correctness was largely confined to academic and elite audiences. Now, it is moving quickly into the policy arena. In California, the Legislature is debating a proposal to end racial preferences in contracts, hiring and admissions, while the conservative National Association of Scholars is promoting a 1996 ballot initiative to end affirmative action. Policies that promote "racial preferences," says House Speaker Newt Gingrich, "rig the game."

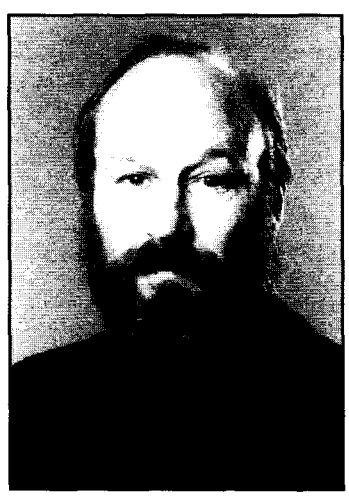
Part of the argument against affirmative action is that it is no longer needed because the worst excesses of racial discrimination have been eliminated and, in George Bush's term, only the "debris" of racism remains. Any truth to this?

Between the 1950s and late 1970s, there was slow but steady progress on the long march to racial equality. But in the 1980s, much that was gained in previous decades was lost as a result of government policies of benign neglect and the collapse of grass-roots movements for equality. For the overwhelming majority of 32 million Black Americans, the only equality achieved has been one of misery. Consider the following:

- Some 750,000 Black Americans, mostly men, are incarcerated every day at a rate of imprisonment that is higher than for Black South Africans, while some 5.6 million Black women and children are humiliated and impoverished by a welfare system that is the least remunerative in the West.
- Urban Black communities suffer a public–health crisis that is comparable to many Third World countries. For example, the Black infant–mortality rate is two-and-a-half times the white rate; and between 1982–1992, African Americans, who comprise 12.5 percent of the U.S. population, suffered 32 percent — over 50,000 — of all AIDS–related deaths.
- Millions of African Americans live in segregated, prison–like, public–housing projects and attend public schools which, in many cities, are as segregated and as third–rate as they were in the 1950s.
- Urban Black communities suffer from a chronically high rate of unemployment and underemployment that, except for brief periods of war–time mobilizations, has remained unchanged since the Depression. In 1993, 10.6 million, or one–third, of African Americans were living below the poverty line. Unable to find steady, adequate work or enjoy the same pension or college benefits available to Civil War veterans and GIs after World War II, many of this generation of African Americans must settle for a career in the lowest ranks of the military where they now comprise almost one–third of the Army and live close to the poverty line.

Most African Americans are no better off than they were in the 1950s, and given the massive cutbacks in public education and the fiscal crisis in higher education, the aspiring Black middle class is finding the traditional route to upward mobility blocked.

In the 1990s, we are moving closer to an apartheid society just at the moment in history when South Africa is taking its first, tentative steps towards popular democracy. It is racism, not affirmative action, that rigs the game. What Langston Hughes wrote in 1935 is just as true today: "O, let America be America again/The land that never has been yet/And yet must be."



Anthony M. Platt is a professor of social work at California State University, Sacramento. He is currently a research associate at the National Museum of American History, Smithsonian Institution, Washington, D.C. His latest book is "E. Franklin Frazier Reconsidered" (Rutgers University Press).

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The rise of the

Political public-relations firms grow more powerful

By Laureen Lazarovici

They keep reporters' desks piled high with faxes on behalf of their clients, who range from the Mountain Lion Foundation to ARCO to Beer Drinkers of America. They design clever advertising campaigns to nudge voters to write letters or call their legislators about specific issues, often organizing sophisticated strategies to target those voters as well. They cobble together disparate coalitions of interests, sometimes uniting large businesses with a consumer group to push an issue. They are political public–relations firms, and they are growing. Some observers even believe that they are becoming almost as powerful as lobbyists as the tectonic plates of California politics shift.

If you view politicians as people who lick their fingers and hold them to the wind, political public–relations practictioners are the windmakers.

Not so long ago, when a hot issue popped up in the Legislature, an interest group would hire a well–known lobbyist to meet one–on–one with key elected representatives. But no more. "Increasingly, lobbyists are bringing us on board on the front end," says Donna Lucas, president of Nelson & Lucas Communications and former deputy press secretary to ex–Governor George Deukmejian.

It's not enough to communicate with legislators. Now, interest groups have to communicate with the public, who in turn pressure lawmakers. "Public relations used to mean, 'Let's give a party and call a reporter.' Now it's much more sophisticated," says Katharine Macdonald, a former Capitol reporter for the *San Francisco Examiner* who now is vice president of the public–relations giant Hill and Knowlton. She recently returned to Sacramento.

In today's political climate, a public–relations firm is no longer a frill. "Any serious

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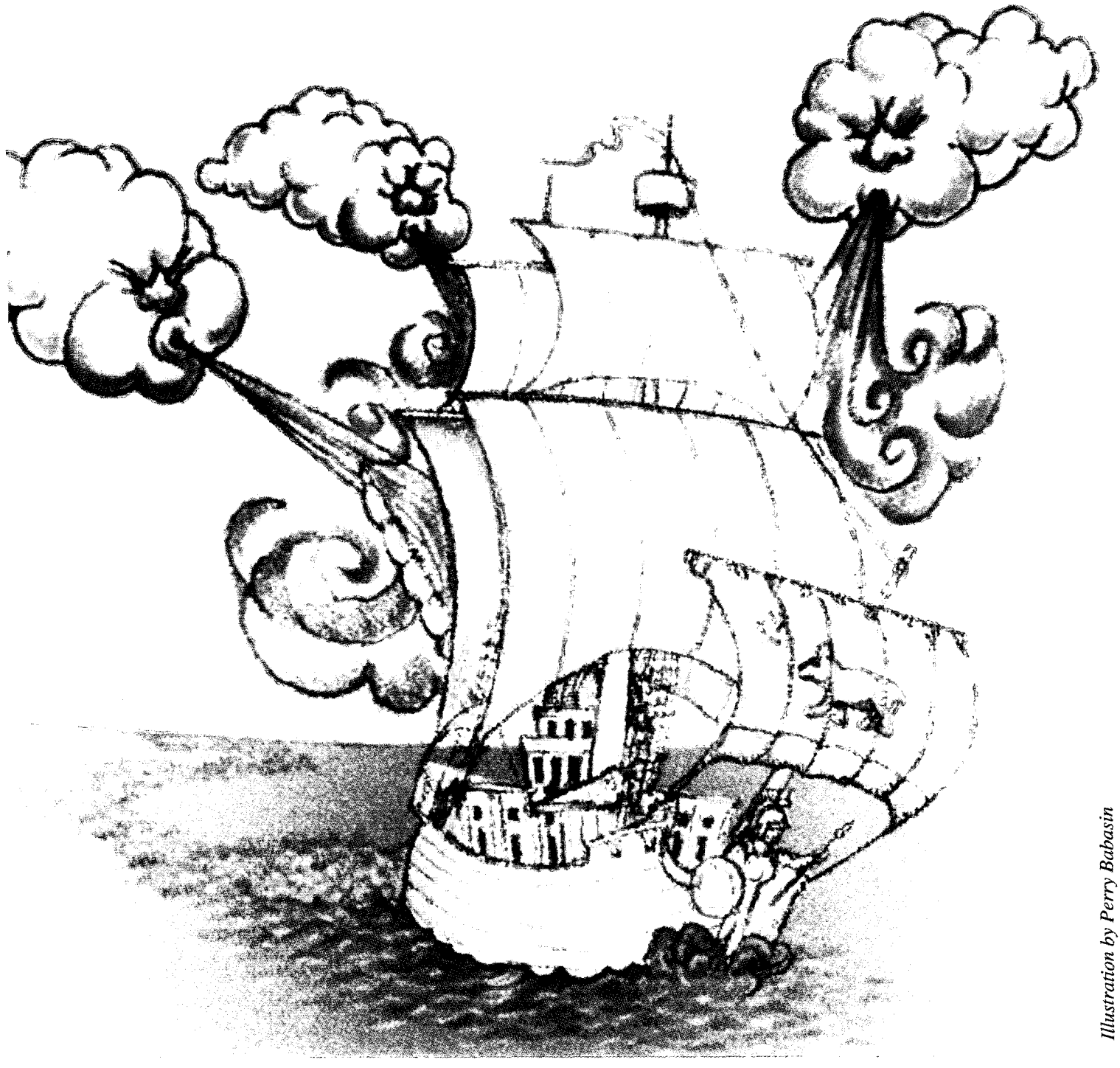

Illustration by Perry Babasin

group needs a poltically experienced PR firm to work on a complete strategy to get a bill through," says David Townsend of Townsend, Hermosillo, Raimundo and Usher.

Why the rise in influence? Many point to technological advances in such things as computer databases, direct mail, telemarketing, cellular phones and the Internet that speed up and target communication with surgical precision. Others say it reflects the changing face of business. "Because of corporate downsizing, companies are closing their in-house PR departments and out-sourcing to other firms," says Macdonald. Besides, she quips, "There are more and more unemployed reporters and politicians, and what else are we going to do?"

All joking aside, public-relations professionals agree that the single most important factor in the growth of their

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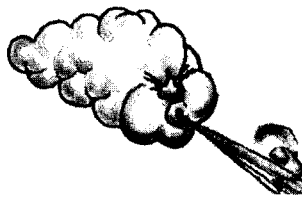
business is term limits. "With term limits and turnover, grass–roots efforts and coalition building are becoming more important," says Bobbie Metzger, a former press secretary to Assembly Speaker Willie Brown Jr. (D–San Francisco) and now a partner in Stoorza, Ziegaus, Metzger and Hunt. "Legislators want to know how their constituents feel, and we motivate their constituents," says Metzger, whose firm's clients include the California Business Roundtable, 3M and Aetna Health Plans.

Because legislators can only serve for six years in the Assembly and eight in the Senate, "The lobbying game is no longer a relationship game," says Michael Boccadoro, vice president at the Dolphin Group. "To get to these people, you have to get to their constituents," says Boccadoro, who seems born for the profession since his name means "golden mouth" in Spanish and Italian.



"Grass–roots efforts work more now because new legislators tend to be more grass–roots based and less Sacramento based," adds Macdonald.

That means coming up with a message on an issue that appeals to interested voters, targeting those constituents and motivating them to contact their legislators. "Without that external capability, a legislator is only hearing the inside game, not the outside game," says Sam Sacco, senior vice president of the PBN Company, whose clients include the Western States Petroleum Association and Californians for Higher Education.

While public–relations executives would like to paint theirs as an "outsider's game," it's still a field populated by well–connected Capitol insiders. Donna Lucas, for instance, is the daughter of two former Capitol reporters and the sister of an Assembly committee consultant (Kip Lipper at Natural Resources). Her husband is *San Francisco Chronicle* Capitol correspondent Greg Lucas — whose father just happens to be state Supreme Court Chief Justice Malcolm Lucas. Metzger is not only a former press secretary to Speaker Brown but is married to his chief of staff, Michael Galizio. Marie Moretti, sister of the late Assembly Speaker Bob Moretti, works at Metzger's firm.

On the Republican side, many alumni of Governor Pete Wilson's administration have landed in political public relations jobs. Marty Wilson, no relation to the chief executive, is the managing director of the Sacramento office of Burson–Marsteller, the nation's largest PR firm. He served most recently as the governor's deputy chief of staff. Former Wilson press aides Franz Wisner and Kassy Perry work in public relations at Edelman Worldwide Communications and Greenbaum Public Relations, respectively. Perry's husband, Phil, is communications director for Assembly Republicans.

In contrast to lobbying, however, those in public relations say that success depends not so much on who you know, but what you know about the governmental process. That's because

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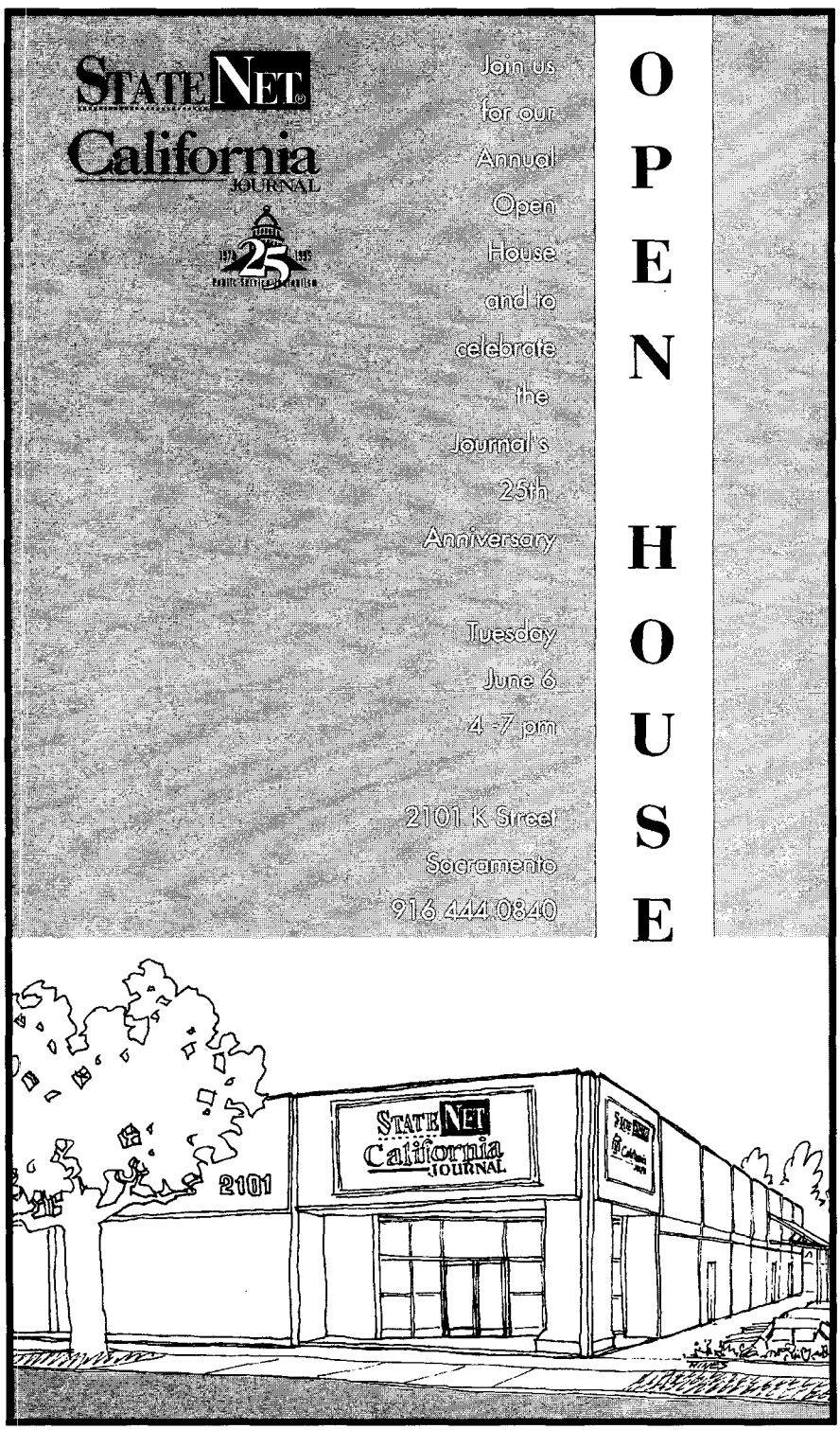

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McElroy

Lucas

public–relations people — unless they are also registered lobbyists — don't have direct contact with decision–makers about pending legislation. "We understand how the process works in media, the executive branch, legislative branch and local government," says Lucas. "That's more important than knowing specific people."

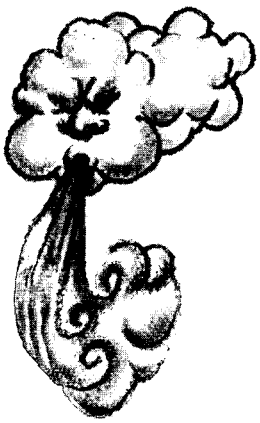
Maybe so, but some people think that political public–relations professionals have grown powerful enough that they should report their activities – – just as lobbyists do. Dennis Revell, a public–relations executive, registers voluntarily and is pushing a bill that would require political public–relations firms to disclose who their clients and how much those clients are paying them. After all, he reasons, public–relations firms may not communicate directly with legislators, but they do communicate indirectly.

Revell has some support among his colleagues, but many others are opposed to his efforts. "Revell is saying that there are powerful forces hiring PR firms to affect legislation. Is that lobbying?" wonders Leo McElroy, whose firm handles accounts for the Mountain Lion Foundation and the state Department of Forestry. "It is to some extent. But I don't think encouraging political communication is lobbying," he says.

Revell counters that his proposal is narrowly tailored. "The bill only affects people who get paid to make this happen," he says. "It lets the public know who cares about an issue enough to put a lot of money behind it." As he wrote to legislators, "If you receive calls and letters from your constituents, you have the right to know whether or not those are legitimate expressions versus manufactured perceptions."

Indeed, some groups' "grass–roots" campaigns have been so ham-fisted that they've been derided as "astroturf" by critics who say unpopular special interests sometimes hide behind "white hat" organizations to get better press and reception from legislators (see *CJ*, November 1994). The controversy over registering merely proves how powerful the industry has become. "If people think we are influencing them, good," says Lucas. "That means we are doing our job."

It's ironic that "grass–roots" — once the buzzword for populist causes like environmentalism, union organizing and consumers rights — is now becoming the domain of button–down public–relations professionals representing large corporate interests. Groups that often come into conflict with environmentalists, for instance, say that they are just trying to level the public–relations playing field. "The other side can muster PR resources," says PBN's Sacco, whose company represents oil companies. "Environmentalists can play a little looser with science because they are perceived as the 'white hats.' At least initially, they have the edge because their side sounds better." Ken Rietz, western region president at Burson–Marsteller, says, "In a lot of cases, we represent the underdogs." The firm's clients include Southern California Edison, the National Smokers Alliance, and Californians for Responsible Environmental Laws, which favors a roll-back of the Endanged Species Act. "Environmental groups have better access to the media," says Rietz. "A major corporation may be bigger, but they can come in as the underdog." But even if their goals diverge, the techniques used by environmental groups and their adversaries are becoming increasingly similar. "There's a lot of lessons that we



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can learn from the environmental community," says the Dolphin Group's Boccadoro. "We've learned about grass–roots organizing."

Indeed, public–relations firms have learned from the grass–roots successes of public–interest groups in general. In the early '80s, for example, Mothers Against Drunk Driving "got a law passed without any money, by mobilizing people, not the usual political players," says McElroy, who worked for the group. "That led to the consciousness that coalitions worked, and often you build coalitions through the media."

Adds Ray McNally, president of McNally Temple Associates, "More groups will learn how to mobilize and have their voices heard. That's the way democracy is supposed to work. Other groups have been organizing for years because they couldn't afford high–priced lobbyists. Now, groups that could hire lobbyists are learning to organize, too." One of McNally's clients is the California Manufacturers Association. He says organizing the people he works for is "no more manufactured than organizing migrant farmworkers."

Not everyone is so enthusiastic about this trend. "Now everyone is a 'grass–roots organizer,'" sighs Steve Hopcraft, a public–relations consultant who works on behalf of issues like rent control, bilingual education and housing for the homeless. "No one wanted to do this before, but now there's money in it. Most corporations are just spending money in different ways, and this is one of the new ways to do it." But he says there's more to it than money. "Because politics' image is so bad, everyone wants to be grass–roots," says Hopcraft, who once organized, yes, farmworkers and served as former–Lieutenant Governor Leo McCarthy's press secretary. "No one wants to be seen as a special interest."

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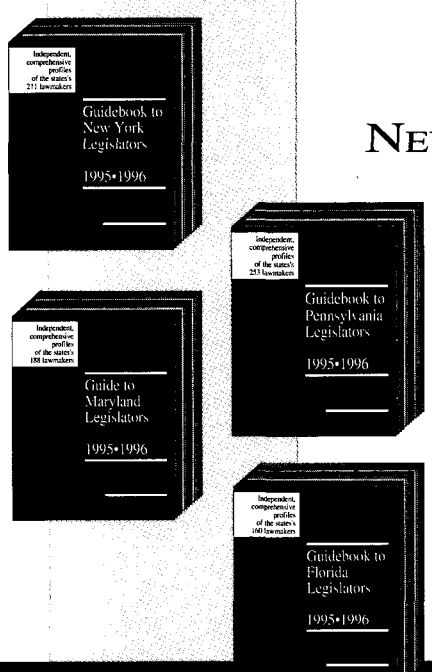
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The Bottom Line

GOVERNMENT FINANCE

By Susan Rasky

Medicare, Mendacity and the Millennium

What goes around, comes around.

That's journalistic shorthand for observing that the current Medicare trust–fund "crisis" couldn't have happened to a nicer bunch of folks. How delicious that those who so vehemently opposed the Clinton administration's stab at health reform last year should be touting managed care as the solution for Medicare's financial problems this year. How splendid that the crusaders for a balanced budget constitutional amendment should be forced to admit that even voodoo can't get the federal deficit to zero early in the next century if both Social Security and Medicare are excluded from the fiscal pie. And how very wonderful that the noisy House backbenchers who once had the luxury of screaming about the problem without ever having to worry about the solution now find themselves dancing on what Ronald Reagan's budget director, David Stockman, so accurately described as the third rail of American politics.

Eventually, of course, it will become clear that Medicare is a zero–sum game and that whatever fiscal or political solution is reached in Washington will have profound consequences for both the seniors who receive Medicare benefits and for the younger American workers whose taxes support those benefits.

But it's a safe wager that it will be late summer or early fall before any of us have to make serious assessments — self–interested or otherwise — about where we stand on the Medicare issue. For your convenience, herewith is a brief guide to the players, politics and sordid details of the Medicare trust fund. Pick any villain you like. Nobody has clean hands on this one.

As usual, it begins with simple arithmetic. Medicare, which covered 36 million elderly in 1994, cost federal taxpayers $160 billion that year. Beneficiaries pay about $550 a year to cover doctor visits as well as some deductibles for hospital and physician care. They pay nothing for their hospital insurance, which is financed by a payroll tax on workers and employers. But with health care costs rising at about 10 percent to 11 percent a year, even that tax long ago ceased to fully finance the hospital insurance portion of the program. In other words, the so–called "crisis" in the hospital insurance trust fund — the fund that trustees say will be broke by 2002 — is not news to anybody on Capitol Hill who's bothered to pay attention for the past decade.

Social Security, government retirement benefits, Medicare and Medicaid — the state–federal program that covers medical care for the needy — together represent about half the federal budget. But Social Security and government retirement benefits are, at least in the foreseeable future, politically off–limits as part of any budget deficit solution. That much was firmly established 10 years ago when Senators Pete Domenici (R–New Mexico) and Bob Dole (R–Kansas), then Budget Committee chairman and majority leader, succeeded by one vote — then–Senator Pete Wilson on a stretcher and hooked to an IV line only hours after appendix surgery — in getting the Senate to freeze Social Security cost–of–living increases for a year as part of a deficit reduction package. It was a short–lived victory.

House Republicans, correctly assessing that Democrats would clobber them with the Social Security issue, went berserk and vigorously lobbied President Ronald Reagan to withdraw his support for the COLA freeze. Reagan, who'd been uncomfortable from the beginning about even this modest hit on Social Security, invited House Speaker Tip O'Neill to the White House for a few drinks on the veranda. By the time the two savvy old pols had finished chatting, Reagan had nixed the COLA freezer and O'Neill had agreed to more defense spending. The GOP loss of the Senate the following year was due at least in part to Democrats capitalizing on the Social Security COLA vote.

That history has left Medicare and Medicaid, the fastest growing federal programs, as regular targets for congressional budget–cutters. Lawmakers routinely achieve "savings" out of these programs during budget season by cutting federal reimbursement rates to hospitals and physicians rather than taking the more politically dangerous step of increasing Medicare payroll taxes or increasing beneficiaries' out of pocket expenses.

Congress learned just how politically dangerous in 1988 when it sought, with the blessing of the American Association of Retired Persons, to institute a Catastrophic Health Insurance program for the elderly that was partly financed through higher premiums and co–payments. The program was repealed a year later after furious protests by seniors.

This year, the Medicare mess is more deeply entwined than ever with the federal budget debate. The Republican congressional majority has vowed to balance the budget by 2002, a task that among other things would require something like $250 billion in cuts in Medicare over the next seven years. That almost certainly will require something more than tinkering with reimbursement rates.

For starters, powerful physician and hospital industry lobbies point out that Medicare reimbursement rates already are at about 60 percent of the market rate for doctors' services. Further reductions, these lobbies argue with some validity, would force hospitals to reduce staff, shift costs to privately insured patients and curtail services.

Republicans who once decried the Clinton administration's proposals for managed–care health insurance arrangements as creeping socialism are now suggesting that moving the elderly into managed care plans might be one way of trimming Medicare costs.

So how does it all play out? The most sensible course would be a bipartisan commission to recommend Medicare reforms and tax increases that would shore up the trust fund. Like the panel that overhauled Social Security in 1983, that would provide everybody political cover and at least a modicum of fiscal integrity for the program.

But commissions only work when all sides to the debate concede that they have extracted maximum political advantage from blaming each other for whatever crisis is threatening a popular program. It's not clear that we've reached that point yet with Medicare.

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The Future for California

by Sigrid Bathen

A radical restructuring of care for California children, with the focus on preventing family crises before children are harmed, is suggested in a preliminary state Master Plan for Services to Children and Youth.

—The Sacramento Bee
Nov. 18, 1979

From 1989 through 1994, the number of children living in poverty in the state rose from 1.66 million to 2.36 million. In the last five years, more children have moved into impoverishment than in the previous twenty years combined. . .The consequences of current and proposed policies are not ambiguous: undernutrition, deprivation, and permanent harm for millions of children.

— Children's Advocacy Institute
'Child Poverty in California,' May 1995

Of all the stories on children I have researched and written over the years, I especially remember the story of six-year-old Danny Balfour, and the pictures the police showed me of his bruised and near-lifeless body hooked up to futile hospital life-support machines. More than 15 years after the lengthy, two-part story about the death of a child in state-licensed foster care was published in *The Sacramento Bee*, Danny's story remains as vivid as it was during those bleak fall days in 1979 when I was interviewing state and county officials, family members and foster parents and combing police and child-welfare records in the tiny, weather-beaten coastal town of Crescent City near the Oregon border.

The story is seared more prominently in my memory even than the 1974 story about the

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Sigrid Bathen is a former Sacramento Bee *reporter who was press secretary to state Superintendent of Public Instruction Wilson Riles and Attorney General John Van de Kamp. She writes for several publications, including* Sacramento Magazine *and* California Lawyer, *and teaches journalism at California State University, Sacramento.*

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Children

Illustration by Jonni Hill

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mentally retarded child who was badly beaten in an understaffed and poorly supervised state hospital; more than the countless interviews with juvenile criminals, including a 12-year-old who had murdered an eight-year-old, conducted in 1976 for a series on juvenile crime, which was then a mildly noted but increasingly menacing phenomenon. More than the horrific stories of child abuse researched for speeches by state Attorney General John Van de Kamp, for whom I worked as press secretary during his first term in 1983-87. More than the wrenching accounts of chronically hungry children and their parents in California's agriculturally rich Central Valley for a study I helped write for the California Rural Legal Assistance Foundation in 1991.

Perhaps it was the sheer brutality of the Balfour boy's death, the stark poverty of the house where he lived his final days or the bizarre incompetence, paralysis even, of government agencies charged with protecting him; but Danny's story has always stuck in my mind as one of the worst examples, among many, in California's sorry history of services to children—services which, by all accounts, are getting worse, progressively more poorly funded and less accountable either to taxpayers or the children and families they are designed to help. In a mad rush to punish absent, drug-addicted or simply irresponsible adults, policy-makers are punishing the children instead.

The history is instructive. State officials under then-Governor Jerry Brown were talking a lot in those days about the need to improve children's services in California, much as the administration of Governor Pete Wilson did in his first term and now as he aims for the White House. I used Wilson's 1990 inaugural speech as an exercise for journalism students in classes at California State University, Sacramento — as their eyes glazed over, I told them to pretend they were there and write a *concise* story on this massive tome. I suggested they focus on the prevention theme of the speech, and its emphasis on children, which I found refreshingly newsworthy.

Four years have passed, and Wilson, much like Jerry Brown before him, is still talking about reforming children's services, mainly the appalling state of California education, but not much has changed. The future for children in California has, in fact, become increasingly bleak as report after report is issued by highly respected academic and advocacy groups, detailing the grim, deprived, impoverished, crime-ridden lives of California children in the '90s and beyond.

Just last month, on May 9th, the Children's Advocacy Institute announced an early release of the first chapter of its 1995-96 California Children's Budget, sounding yet another alarm about funding priorities in a state where more children live in poverty than at any time in California's history. Citing "irresponsible and unconscionable choices made over the past five years by public officials," the institute urged a major realignment in the way state and federal officials approach and fund child welfare, nutrition and protection — including serious parenting education and family planning to prevent teen pregnancy, improved child support collection and aggressive job training. "The major panacea bafflingly advanced is the deprivation of children," the institute concluded, "and it is the one alternative which categorically is not acceptable."

More than 15 years ago, when the Danny Balfour stories appeared in *The Bee*, major reform of the foster-care system was being touted and public hearings held on a state "Master Plan for Services to Children and Youth." Like much of the rhetoric that swirls around state government, regardless of the party in power, the Brown administration pledge proved to be as empty as Wilson's lofty goals in 1990, giving serious pause to any futuristic view of change in the coming millenium.

I learned about the Danny Balfour case from a high-level state official who could have been fired for telling me about it. These things were best kept quiet, the reasoning went. That official decided to put his own outrage and the public good above bureaucratic silence, and no one to this day, even my trusting and extremely savvy editor, knows that individual's identity.

Danny Balfour was placed in unlicensed foster care in a dingy house in Crescent City across the street from the very licensing agency — the Del Norte County Welfare Department — that was bound by law to protect him. He was later beaten to death by his foster father, who was an ex-felon at the time Danny was placed with him and his wife, who was pregnant and receiving AFDC. Eugene Diaz, who was later convicted of Danny's murder, had not lied about his ex-felon status on the foster parent application, and Danny and one of his older brothers were placed in the home before a licensing investigation was done — partly on the recommendation of the boys' mother. The family history was predictably sordid, including abuse, alcoholism, a father in prison for sexually abusing two of Danny's half-brothers. It was an horrific tale, to some extent a worst-case scenario, but also fairly typical of the hopelessly scattered approach to children's services in California and throughout the nation in 1979, when it was virtually impossible to get a precise number from bureaucrats at any level on even the *number* of foster homes where the child had been placed, at considerable public expense and with quite obvious failure:

"Danny Balfour was a foster child, a veteran of at least seven and perhaps 13 foster homes, depending on whose estimate is accepted, but his life ended in the last one. He died much as he had lived — abused, battered, neglected,

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ignored, passed around this rugged north coastal town like a slab of lumber or fish, mainstays of the community's tenuous economy.

"He turned six on August 28, 1979. He died in a hospital on September 21 of massive head injuries. . .

"As near as the police can tell, he was beaten to death sometime on the afternoon of Sept. 18, 1979, in the green frame house where he was placed by the welfare department some two months before. Records at Crescent City's Seaside Hospital indicate he was brought to the emergency room at 8:25 PM, in an ambulance summoned by his foster father." (*The Sacramento Bee,* Nov. 14, 1979)

One of the ironies in the Balfour story is that Crescent City has since received a major economic infusion from the Pelican Bay State Prison, the state-of-the-art maximum-security facility for violent offenders. Before writing extensively about children's issues, including the burgeoning juvenile crime problem in California, I had long covered criminal justice and prison issues, and I find it an irony of sorts that the economically distressed community where Danny Balfour was ignored and died is now thriving because of a high-tech prison — an enormously expensive high-tech prison with its own set of problems, not the least of which is the huge drain on the state budget for incarceration.

While no one, certainly not politicians, wants to take on the issue of prisons versus schools and children's services, the fact is that California's correctional budget is draining massive quantities of scarce state dollars from programs that otherwise might be better used for schools and food programs for California's increasingly hungry children, as well as juvenile crime prevention efforts of proven success and considerably less cost. I say *might* because the bureaucracy has an uncanny knack for screwing up the delivery of critical funds to needed places, even when the will is there and the funds are available.

One "reform" pushed through by the Brown administration in response to a series of scandals, many involving children's issues, in the old state Department of Health, was to invoke that timeworn bureaucratic adage — "when in doubt, reorganize!" — and break up the enormous department into smaller units. And, while the plan in theory had merit, in reality questionable administrative practices were simply transferred to smaller departments, resulting in little substantive change. Licensing of child-care and foster-care facilities, for example, is now handled by the Department of Social Services, often under contract with the counties (as was the case in Del Norte County in 1979), a realignment that has not appreciably improved the delivery of services.

There are far more children in need of foster care than places to put them, which means many will simply remain in abusive or neglectful home situations. In a damning report with no particular surprises for child abuse experts, the U.S. Advisory Board on Child Abuse and Neglect in April said violence against young children in the United States has reached epidemic proportions. At the same time, as part of its welfare reform bill, the House of Representatives earlier this year voted to turn over 23 federal child abuse prevention, foster care and adoption programs to the states, while cutting funding by $1.6 billion over five years.

Many small family day care homes in California — the preferred form of child care over center-based care — are unlicensed, and, like child protective service workers, inspectors for child care facilities are overloaded with cases. Investigations of questionable facilities of all types are bogged down by tedious administrative and legal procedures. Child care slots for low-income parents, many of them single parents, are utterly inadequate, and grim child care experts say there is a huge increase in the phenomenon of the "latchkey kid," with all of the attendant social and potential criminal problems that can create. Among at least three million school-age children in California, according to estimates by the state Assembly Office of Research, approximately 620,000 children aged six to 14 are "presently unsupervised before or after school."

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"Some of these children are left with young siblings," reported the Children's Advocacy Institute in its 1994-95 *Children's Budget*. "Others fend for themselves in dangerous neighborhoods, and an alarming number are 'latchkeyed' — that is, locked in the home."

Or unlocked.

"One of the hardest things to accept is that we have no spaces," says Charlene Morita, director of early childhood education for the San Juan Unified School District in Sacramento, where the waiting list for school-based child care for low-income families exceeds 600 children. "We see the children watching us through the fence."

Many child-care experts are troubled by what they see as a tacit social acceptance of the latchkey child as an unfortunate necessity, deterring efforts to provide adequate, safe child care for all who need it. "The latchkey problem is very serious," says longtime children's advocate Pat Dorman, publisher of the venerable newsletter on children's issues, *On the Capitol Doorstep*. "It's becoming 'accepted' that young children can stay alone at home."

When it comes down to the simplistic choice between locking up criminals versus spending money on kids, Californians' justifiably terrible fear of escalating crime and violence always wins out. It's a no-win situation, budget writers and politicians know. Forward-looking law enforcement officials like Sacramento County Sheriff Glen Craig, who is a tough conservative on crime issues but knows crime must be stopped at its source — in the home and schools — are quietly attempting to plug the gushing holes in the dike by doing *both* juvenile prevention and lockup.

"Every politician who is running for office has a solution for the crime problem," Craig said in a recent interview with *Sacramento Magazine*. "But all of them are throwing darts. They're attacking only a small part of the total problem. They're doing it piecemeal and based on emotion. I swear I get so frustrated that we can't get the attention of anybody to do anything until it becomes a major complication."

Craig, who was a longtime state law-enforcement administrator before he ran for sheriff, is among a growing group of "top cops" who back strong programs for juvenile crime intervention. And they all recommend it start early, in elementary school, maybe even preschool, definitely in the home. Since they see the end-result of policies that fail to deal with the root causes of crime, and while they do not advocate locking up fewer criminals, they know that prison space is finite, that crime is increasingly, and chillingly, a children's act, and that time is running out.

In fact, as a reporter who has covered both ends of the criminal justice spectrum, from children's programs to violent adult offenders, I find one bright light on the dim programmatic horizon, and that is the increasing cooperation between educators, children's service administrators and law enforcement. Juvenile diversion programs are flourishing in communities and schools, often staffed by volunteers from the community and local businesses, and many law enforcement agencies, including Craig's, have started mentor/tutor programs to help kids stay in

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school and avoid drugs and other criminal activity — the "easy" money of crime being an attractive option for the increasing numbers of children whose families, if they have families, live on the economic and social edge.

When I was covering K-12 education for *The Bee* in the late '70s and early '80s, and later, when I was press secretary to former State Superintendent of Public Instruction Wilson Riles in 1982, I was often baffled by the dearth of consistent communication between educators and law enforcement officials, the lack of "interfacing," as the bureaucrats like to say, between repeated foster-care placement and later criminal behavior. By the time I was working for California's "top cop" in the Attorney General's Office in the mid-'80s, more open communication between the two groups had begun. Now, in the '90s, there is a plethora of programs involving cops and judges, business and communities, and the schools. It's one small but significant move in the direction of taking decisive action to halt the violence and alienation affecting children and their families in California.

An important aspect of this approach, say juvenile crime diversion workers, is for middle-class volunteers to suspend judgment — and to learn something — about the conditions faced in neighborhoods, homes and schools by young people whose "family" often becomes a gang simply by virtue of the fact that nobody else is around or seems to care. "Gangs will tell you that they will love you and they will die for you," one community activist who works with young people told me in a recent interview for an article on diversion programs. And he used a chilling anecdote from a Detroit gang member who spoke at a conference on juvenile crime:

"He asked the kids how many of their parents told them that they love them, and half the hands went up. He asked them how many of their parents would die for them, and no hands went up."

Another youth worker interviewed for that story — who works with kids convicted of crimes and has significantly lowered their rate of return to the justice system — told the story of a kid whose travel-agent parents would regularly leave him for several days in his upper-middle-class suburban home with $100 and plenty of videos for their wide-screen TV. He was arrested for stealing.

That youth worker also said he avoids the cynicism and defeat of many adults in his field because "I see kids changing. I can see them changing in front of me. I can see a very sweet, young child who was never given the opportunity to be a kid."

Kids like Danny Balfour, who would have been 22 this August 28.

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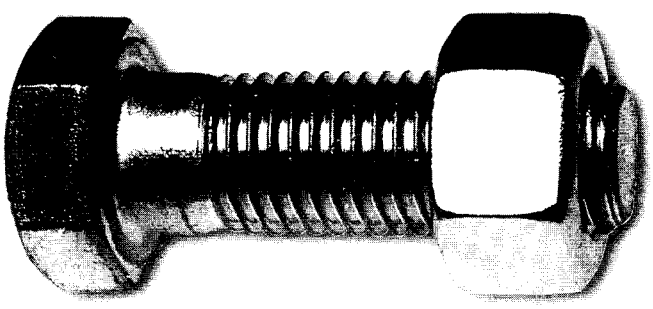

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Seniors and the California

An independent life fulfills the dream for many older Californians

By Leo McCarthy

Frances Lawrence turns 54 this year. She is eligible for membership in the Southern California chapters of both the Older Women's League and the American Association of Retired Persons. She does not spend much time at the beach anymore — the dampness makes her shoulder twinge — and when she does go, she takes care to cover up with her sunblock and hat. Still, she can not imagine living anyplace else; the California dream is strong in her. The question is, at 54, is there still a place for Frances — or "Gidget" as she is also known — in that dream?

After Gidget, the 16–year–old surfer, appeared in Frederick Kohner's 1957 novel — about the time I was first becoming active in politics and government in California — we soon heard from Jan and Dean and the Beach Boys and saw Frankie Avalon and Annette Funicello on screen. The message coming forth about California through entertainment and advertising was "youth,

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Leo McCarthy represented San Francisco in the Assembly from 1969 to 1982. He succeeded the late Bob Moretti as speaker of the Assembly in 1974, a post he held until 1980. A Democrat, McCarthy was elected lieutenant governor of California in 1982, serving three terms before retiring from elected life in 1994. During his 12 years as lieutenant governor, McCarthy regularly championed issues important to senior citizens, especially nursing–home reform.

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Dream

Illustration by Jonni Hill

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youth, youth." Bingo was exciting if played on beach blankets instead of in church halls, and it was cool to be 65 only if you were a Mustang.

The foundation for the California dream seemed pretty secure back then. Southern California's aerospace and defense industries swelled the middle class and the suburbs, our colleges and universities had funds to raise buildings instead of fees, and we worried about the trouble our kids could get into at drive–ins, not in drive–bys. Since the time I began my government service, however, two factors have merged that dramatically affect senior citizens' place in the California dream. Californians are getting older, and our public policy options are becoming narrower.

In 1995 there are 4.6 million Californians over 60. The number of Californians aged 45 to 60 has increased almost 10 percent in the past four years. Our 85+ popullsation is projected to be among the state's fastest growing groups in the next 50 years. At the same time, fiscal and political realities have severely limited our policy options. Years of recession and annual state budget shortfalls have created a climate where meeting increased demand with static funding has replaced making progress as the realistic goal for many programs.

Our ability to deliver health care to seniors, a paramount issue for an aging population, could be severely diminished by proposals in Congress to cut

more that $230 bilion from the Medicare and Medicaid programs without alternative private systems in place. Reports from national medical groups, the Long Term Care Campaign and others suggest that the smallest of the Medicaid cut proposals alone could drop 12,000 Californians out of home, community or nursing–home care by next year and 83,000 by the year 2000.

There currently exist private sector enterprises that could be enlisted to serve Medicare and Medicaid clients effectively, at a cost savings, with only modest incentives. It is important that the whole picture — including increasing the utility of private sector services and cracking down on waste and fraud — be considered in crafting Medicare and Medicaid policy, not simply budgeting lower dollar amounts.

When confronted with scarce resources, we should remember that in addition to providing profound human benefits, ensuring access to home– and community–based care reduces economic costs by limiting the need for acute care and emergency care services. To use an appropriate California analogy, it is better policy to spend a little money to put oil in your car than to replace your engine when it blows. Two of the best programs in this regard are Adult Day Health Care (ADHC) and In Home Supportive Services (IHSS).

One of the smartest things the California Legislature ever did was create the ADHC program, which provides seniors with personalized health–care plans developed after multi–disciplinary screening. It has the added benefit of providing a lifeline of friends and activity for the elderly and a respite for caregivers. There simply are not enough of these centers. In the 1970s, when we passed the ADHC legislation, we envisioned at least 300 around the state. Today, we have 83.

IHSS is the single biggest factor promoting independence in the state. This program provides personal–assistance services for such vital daily living activities as feeding, bathing and dressing, allowing the elderly and people of all ages with disabilities to remain at home, surrounded by the people and things they love.

I am heartened to see IHSS scheduled to receive a caseload increase in the governor's 1995–96 budget. In 1993 Medi–Cal spent $1.7 billion for nursing–home care and only $130 million for in–home care. It should be the most widely accepted common sense — if a few hours of in–home care replace the need for fulltime institutionalization, everyone wins. Through the efforts of groups such as the Public Interest Center on Long Term Care, Families USA, the Alzheimer's Association and others, this point is being made. But there is still a way to go.

An outstanding series on seniors and caregiving that recently ran in the *San Francisco Examiner* quotes a high–

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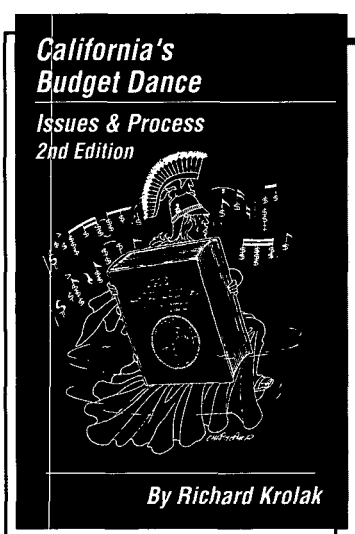

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By Richard Krolak

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ranking official of the California Department of Aging as saying, "The reality is if they funded all the home–related services for everyone who needs them, it would probably exceed the Medi–Cal budget, aside from the fact there aren't enough caregivers to serve everyone." The prevailing attitude should be to ask at every step how existing and planned policies increase independence and lower costs by keeping people in their own homes. Every agency with aging in its portfolio should see that as its central purpose.

Opposition to institutionalization, by the way, is not a blanket indictment of nursing homes. Some are bad, many are fine, others need improvement. With tough standards, proper vigilance and adequate enforcement, the state can maintain a level of safety and quality of care that should minimize fears for the elderly and guilt for their families. But it is clear that even the best nursing home, with a competent and caring staff and an excellent program, is only a second choice to being able to stay in your own residence, where retaining independence and identity is much more likely.

Given our shifting demographics, public officials should be racing to make IHSS and ADHC and other independence issues a priority, even if they are not as good for generating money and media as the hot buttons of crime, immigration or affirmative action. Frankly, I am not sure where the leadership will come from. If Senator Henry Mello (D–Watsonville) leaves the Legislature, I do not see anyone there with the same passion and experience to carry on. At the federal level, we have not yet seen anyone to match the late Congressman Claude Pepper's (D–Florida) tenacity, or the late Senator John Heinz' (R–Pennsylvania) thoughtfulness, although Senator Jay Rockefeller (D–West Virginia) deserves high marks for his work on long–term care, and retiring Senator David Pryor (D– Arkansas) has been an effective champion for older Americans.

Maybe elected officials' attention will increase as public pressure intensifies. That pressure will be natural because the huge Baby Boomer generation is moving toward seniorhood. Don't get me wrong. Some of my best children are Boomers, but it does seem that when this generation latches onto something, it suddenly exists in an exalted state. We have seen this happen with music, sex, religion, marriage, parenting and exercise. It is likely that aging will follow suit, and the interest–group pressure will rise proportionately.

I hope that as the Baby Boomers do become the senior interest group, it will help dispel the ugly stereotype of the "greedy geezers" concerned only with their own benefits. Like all stereotypes, that one is wrong. First, when Social Security and Medicare are all that keep half of Americans over 65 out of poverty, and when spending down into poverty still is the only way to guarantee access to long–term care, I can understand the necessity for what might appear to be a preoccupation with benefits. Beyond that, you cannot tell me that a group who spent their lives sacrificing to raise families and give their kids a better life are blithely unconcerned about the health and education and economic–opportunity challenges facing their children and grandchildren.

So, how do we keep seniors a part of the California dream? It boils down to valuing independence and remembering who we are.

The 85–year–old woman with the broken hip is the same little girl who once proudly proclaimed, "Mom, I can do it myself." The 75–year–old who depends on his daughter for errands once knew two years running how many days were left until he turned 16 and got his first set of car keys. Independence is something we crave from the moment we are born and fight to keep as long as we live. It is a spark that helped launch every California dream, from missions to movies to microchips.

As a person ages, maybe there does come a time when the power of dreams needs to give way to the comfort of memories — when the fire that drives a life needs only to be tended and no longer stoked. But Californians deserve the chance to hang onto our independence as long as we can.

I hope Gidget does still get to the beach, and that she keeps going for a long, long time.

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Hizzoner — the mayor

Richard Riordan has inserted a CEO's perspective into a sensitive political environment. Has it worked?

By Sherry Bebitch Jeffe

April 11, 1995, was a good day for Los Angeles Mayor Richard Riordan. He was a big winner in the city elections, and he wasn't even on the ballot. Los Angeles voters approved eight City Charter amendments aimed at cutting government waste and red tape and making the bureaucracy more accountable to citizens and their elected leaders. That's what entrepreneur–and–neophyte pol Dick Riordan promised to do in the 1993 mayor's race.

But there followed some not–so–good days. When Riordan recently laid out a $3.89 billion budget, it called for the elimination of about 1200 city jobs and cut $8 million from the Fire Department. Already under attack for mismanagement and allegations of harassment and discrimination by his department, City Fire Chief Donald O. Manning abruptly resigned. In the midst of the maelstrom that followed, Riordan chose to demand the resignation of Fire Commissioner Leslie Song Winner, a Manning critic and the commission's most active supporter of affirmative action. That put the mayor at odds with public–employee unions, council members and almost every other major player in city politics.

That's the way governing had been going for Los Angeles's new mayor. Riordan will do many things incredibly right and then stumble over something astoundingly wrong. By and large, the "saves" have showcased his sure–footed, business skills. His fumbles highlight his impatience with and — some critics say — his insensitivity to the political environment of Los Angeles. These slips also have tended to occur on issues of particular concern to the city's poor and minority populations.

What does that say about Richard Riordan — the person and political leader? Riordan's view of the world has been shaped by his life, training and career before he entered electoral politics. And that world view has influenced his leadership style and philosophy of governance. Riordan is the product of privilege and preparation. A philosophy student–turned attorney, he moved to Los Angeles in 1956. He became an entrepreneur and venture capitalist, amassing a fortune estimated at more than $100 million. He has donated millions of that to charity, and as mayor accepts a salary of only $1 per year.

Venture capitalists make their mark in business by investing in fledgling companies in exchange for a big chunk of equity. But the way Riordan has operated Los Angeles government is more reminiscent, say some critics, of a take–over artist, who takes control over a corporation, pares it down, tightens its belt, and then takes off for

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Sherry Bebitch Jeffe is a senior associate at the Center for Politics and Economics at Claremont Graduate School. Her column on Southern California politics, "Southern Exposure," appears several times each year in California Journal.

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# of Los Angeles

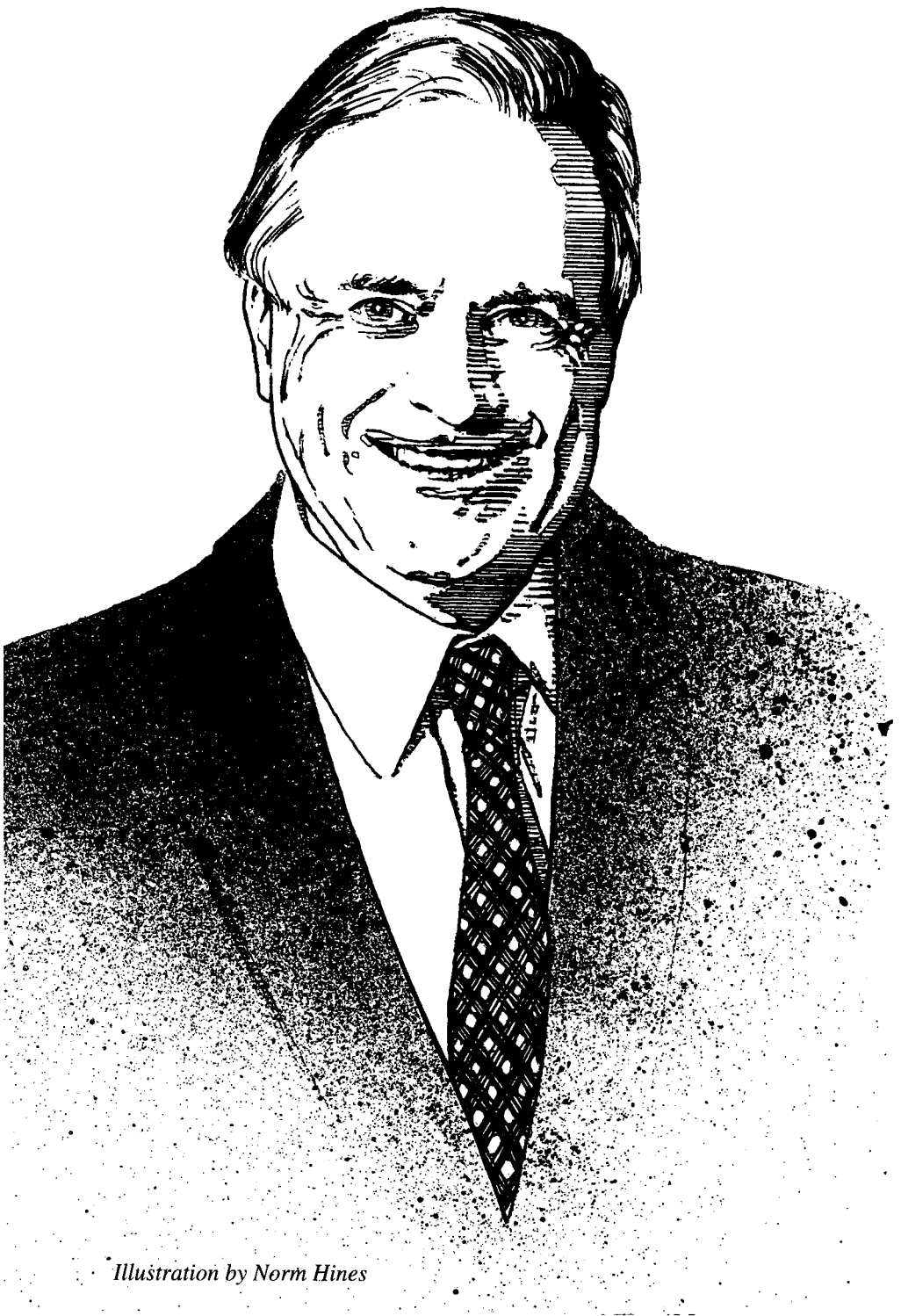

Illustration by Norm Hines

other pursuits. Critics say Riordan has brought "the art of the deal" to City Hall, with a style more suited to a corporate CEO than to the temporary head of an entrenched bureaucracy. But his activist philosophy is infused by his Catholicism and a culture of "noblesse oblige."

Riordan, the politician, came out of nowhere — if you consider years of quiet civic involvement and contributions to political and social causes "nowhere" — and spent over $8 million dollars ($6 million of it his own money) to position himself as a political "outsider" in the race for mayor against then–City Councilman Michael Woo. Riordan handily won election to Southern California's most visible political office.

Riordan's electoral coalition provides a map for his governing priorities. In Los Angeles, Anglos account for about 37 percent of the population. But in the June 1993 mayoralty election, they were 72 percent of the city electorate. Anglo voters sided with Riordan over Woo 67 percent to 33 percent. Riordan garnered a healthy (for a Republican) 43 percent of the Latino vote, and 31 percent of the Asian vote. But he got only 6 percent of the African–American vote. Riordan scored his most striking victory in the vote–rich, moderate–to–conservative San Fernando Valley — defeating Woo by a 71 percent–to–29 percent margin. Riordan took the more liberal Westside, too, with 55 percent of the vote. Riordan's vote reflected the appeal his campaign themes — jobs, safety and government reform — had with moderate and swing voters. And the mandate Riordan and his people read in those results has driven his policy agenda.

Riordan's appointments to the powerful citizens' commis-

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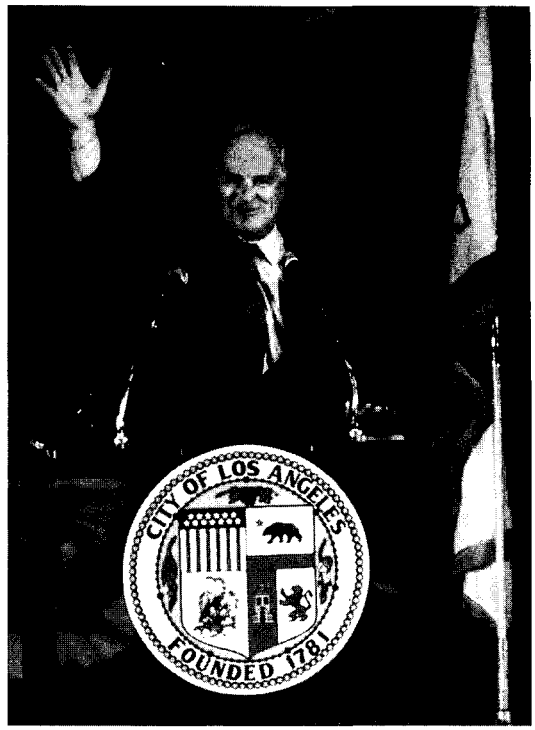
sions that oversee city departments cut across partisan and ethnic lines. But they rely heavily on the mayor's bases of support — middle and upper–class Angelenos, Republicans, like–minded business people, whites, Valley and Westside residents. Minorities and poorer residents of the city's urban core have lost some ground. A similar emphasis can be found in the mayor's budget — which continues Riordan's drive for more police, slashes business taxes, and proposes further cuts in the government payroll. As a result, critics charge that Riordan is the mayor of "the white and rich" Los Angeles. Groused political consultant Felicia Bragg, who has run inner–city election campaigns, "Somebody ought to tell him 'The Brady Bunch' was just a movie."

Riordan, the man, tends to view the world through the prism of class. And that impacts policy outcomes in a city increasingly defined in terms of conflicts between a politically active, influential group of primarily Anglo "haves" and a powerless aggregation of largely Black and Latino "have–nots." Riordan's tilt also reflects his grounding in both venture capitalism and politics. Simply put, to the victors belong the spoils.

Riordan, the politician, is an odd combination of Ronald Reagan and Bill Clinton. Like Reagan, Riordan gives off an aura of being "centered;" he is at ease with himself and his persona. Like Reagan, Riordan radiates a central core of values. His values are not framed by conservative ideology; they reflect his pragmatism. Also like Reagan, Riordan focuses on the "big picture," locking onto the broad policy goal he wants to accomplish and happily turning the challenges and problems of implementation over to an aggressive staff. The mayor also shares another quality with Reagan: Even his critics admit he's "so damn likable." Said Councilman Mike Hernandez, both a critic and supporter, "He means to be a good man." Riordan is a self–styled optimist who radiates a Reaganesque belief that it's morning in Los Angeles. Both men also came to elected office bent against bureaucracy and "Big Government;" both rode a wave of voter frustration with those institutions. And, Reagan biographer Lou Cannon observed, "Riordan [like Reagan] has a certain authority that comes from his being a citizen–politician." Finally, as with Reagan, Riordan found his lack of government experience an early disadvantage — and is working to overcome it.



Riordan says "the biggest mistake" of his early administration was "not learning how to effectively work with the City Council." Council President John Ferraro believes that Riordan came to office "not realizing [what it means] being mayor of the city when the governing body is the City Council."

Riordan has been moving to improve relations with the council and bureaucracy. Opinion among council members appears divided on his success. But Ferraro believes the mayor has "a greater grasp of government now."

The missteps, such as those surrounding the Fire Department, occur, and that's when Riordan begins to look like Clinton. Riordan, like Clinton, sometimes steps on his message or stumbles over strategy and finds himself sidetracked by damage control. Like Clinton, he's been criticized for his handling of personnel matters, while controversy and conflict–of–interest questions have dogged some Riordan appointees. Early in his administration, staff turnover was high. Clinton has come under fire from the left for abandoning Democratic core constituencies; Riordan has been attacked as an apostate by disgruntled conservatives. Last year, for instance, RINO buttons appeared at GOP functions, blasting Riordan for being "Republican in Name Only." Bill Wardlaw, Riordan's close friend and key adviser, chaired Clinton's California campaign. And Riordan has supported Democratic candidates and hired staff across party lines.

Riordan's biggest success so far spotlights his leadership style. For many, including the mayor, last year's Northridge earthquake defines his image. It was, said Hernandez, "this mayor's baptism." "He was in charge," marveled another City

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Hall observer, "competent, calm, supportive. He was everywhere."

In terms of policy, the charter victories and the two budgets Riordan has submitted since taking office are generally viewed as stand–outs in an otherwise spotty record. The passage of Charter Amendment 2 was particular impressive. The reform, which gives the mayor and council more clout in hiring and firing city department heads by exempting them from civil service, represents a sea change in Los Angeles governance. Said one longtime City Hall watcher, "It was only Riordan's personal political popularity that got [it] through. People don't trust government, but they trust him."

Riordan has had his policy failures, however. "Privatization," for instance, is viewed by City Hall watchers as a significant failure. Riordan campaigned on — and has since backed away from — a plan to privatize Los Angeles International Airport (LAX) to pay for more police. And the City Council has rebuffed all his efforts to turn city services over to private contractors. The mayor found himself stymied by the political clout of the city's public employees unions — which supported Woo in the mayor's race. But Riordan insists, "I'm not an ideologue on privatization. I'm an ideologue on efficiency and the threat of privatization has helped us ... with the unions and management working with us to make the departments more efficient."

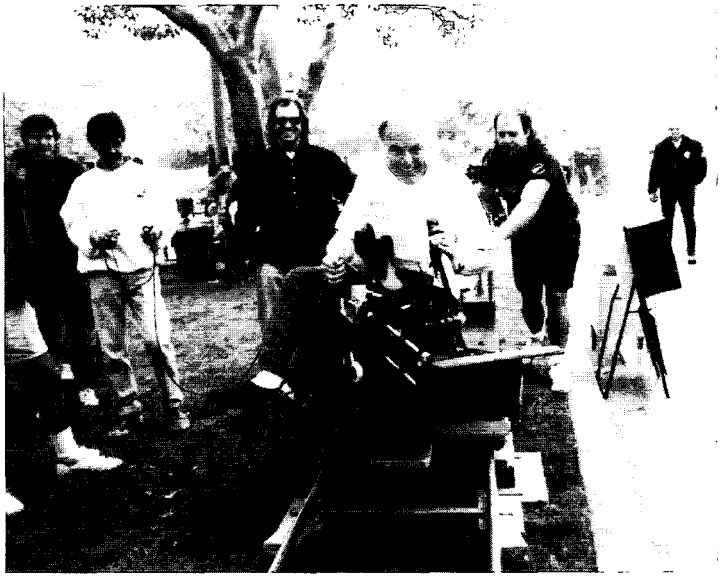
"Empowerment" is a word the mayor often uses; it is a concept central to his approach to both business and government. To Riordan, it means "giving [people] the power to make decisions, the power to make mistakes and the power to correct mistakes — all with confidence."

"Empowerment" became a linchpin of Riordan's plan to revitalize the local economy. It also made another Riordan setback particularly bitter. In December 1994 the Clinton administration decided *not* to award Los Angeles a federal empowerment zone. Ironically, the empowerment zone program was created largely in response to the 1992 Los Angeles riots. The designation would have meant $300 million to $600 million in social–service grants and tax breaks, which would have directly benefited poor communities in Pacoima and east, Central and South Los Angeles. But, the feds said the Los Angeles application was vague, lacking in focus and specificity. City leadership was criticized as disorganized and overconfident.

Los Angeles received a "consolation prize" of $250 million in federal funds — including $125 million that must be repaid with interest. But Riordan was so angry at the loss of the empowerment zone designation that he snubbed Clinton by refusing to participate in a press conference call arranged by the White House to announce the awards. That amount subsequently was increased to $400 million, and Vice President Al Gore came to Los Angeles himself to announce it.

A large percentage of Los Angeles' population is minority, but thus far, Riordan's relationship with the city's diverse ethnic communities has been shaky. His relationship with Police Chief Willie Williams, the city's highest–ranking African–American official, has long been characterized as "uneasy." Councilwoman Rita Walters, who represents a Black part of Los Angeles, argues that "from the time [Riordan] took office, he set up [his] relationship with the chief for failure."

Some African–Americans believe that the mayor's office has been encouraging criticism of both Williams and Metropolitan Transit Authority Chief Executive Officer Franklin E. White,



who is Black. Riordan has been faulted for, as Walters put it, his "failure to communicate with all parts of the city and lay the groundwork for doing substantial outreach with all parts of the community."

And although he leads a city where Latinos make up nearly 40 percent of the population, Riordan was invisible on Proposition 187. In addition, the mayor's take on the hot–button issue of affirmative action satisfies few African–Americans. Riordan has ordered a review of city affirmative–action programs, with

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the idea of making them better on the issue of contracting out. "Too often," he says, "they help the usual, wealthy suspects and not really the people that they're designed to help ... the small, medium-sized businesses."

Will Riordan run again? Nearly everybody — including the mayor — says "Yes." "It's fun!" he says of his job. And City Hall watchers see no one on the horizon to run against him. With Riordan's popularity high, local politicians appear content to wait until the mayor's two-term limit — which he championed during the campaign — kicks in. A recent attempt by disaffected African-American leaders to plot strategy for the 1997 election — including the possibility of fielding their own candidate against Riordan — yielded little. And despite rampant speculation that Riordan has set his sights on the governorship — or higher — Riordan demurs. Vice president? No, he says. "I never want to be anonymous in life." Governor? "No. It doesn't appeal to me" because it's the mayor's office "where you can do things."

Riordan has a lot to do in the next two years to make good on his campaign promises. He pledged to deliver 3000 new police to the city or not run again. Ironically, the Republican mayor's progress toward his goal relies heavily on Clinton's federal crime bill. But the new GOP Congress could upset his plans, although such an upset probably is not fatal. As *Los Angeles Times* columnist Bill Boyarsky observed, "No one will care if he doesn't reach 3000 if he tries."

In the wake of the empowerment zone fiasco, Riordan launched, and the City Council has approved, a proposal for a "community development bank." The novel public/private initiative would use federal grants, loan guarantees and venture capital to stimulate business development in the city's poorest neighborhoods. His administration is looking at the Community Development Bank as the new linchpin of Riordan's job-creation strategy. "It does," says Deputy Mayor Robin Kramer, "exemplify the mayor's approach and an effort to leverage some lasting results here."

The Los Angeles economy is likely to help Riordan toward that goal. Hard-hit by disasters and recession, it is beginning to show signs of recovery. Politics is, after all, a matter of luck and timing. And City Hall players agree that Riordan has been blessed with an ample amount of both. Riordan, says Boyarsky, is "where people are politically. He came along at the right time."

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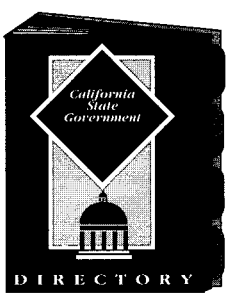

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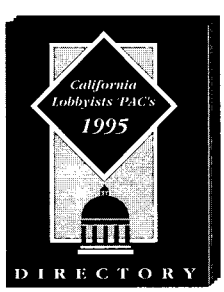

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The Sweet Deal

A casualty of Proposition 140, the legislative pension system is a Cadillac–style package — for those who qualify

A year after then–Assemblyman Bill Leonard (R–San Bernardino) was first elected to the Legislature in 1978, he sent the paperwork explaining the state pension program to a financial planner and asked: "Should I join this?"

The rapid reply: "Hurry! Join it now! No way could this be matched by private industry."

Leonard followed that advice, and even paid extra to make up for the initial year he did not participate. He's glad he did, for Leonard, a 47–year–old conservative Republican, is one election away from reaping a nearly $500,000 financial bonanza unlike that available to but a few dozen politicians. It's called the Legislative Retirement System, or LRS, and it's a lavish Cadillac– style, pay–and–benefits package that rivals few, angers many and was outlawed by voters to anyone winning state office after 1990.

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*Ray Sotero is a Sacramento correspondent for Gannett News Service/*USA Today.

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Pension watch

SENATE

20–year vets	**Years***
Al Alquist (D)	33
Ruben Ayala (D)	24
Bob Beverly (R)	29
Dan Boatwright (D)	23
Jim Costa (D)	24
Bill Craven (R)	25
Ralph Dills (D)	32+
Leroy Greene (D)	35
Teresa Hughes (D)	25
Ross Johnson (R)	25
Dave Kelley (R)	22
John Lewis (R)	20
Bill Lockyer (D)	25
Ken Maddy (R)	28
Milton Marks (D)	38
Henry Mello (D)	20
Richard Mountjoy (R)	24
Jack O'Connell (D)	20
Steve Peace (D)	20
Nick Petris (D)	37
Herschel Rosenthal (D)	24
Newt Russell (R)	31
Diane Watson (D)	20
Cathie Wright (R)	20

Must return to Assembly	
Charles Calderon (D)	16
Tom Hayden (D)	18
Pat Johnston (D)	18
Lucy Killea (I)	14
Bill Leonard (R)	18
Tim Leslie (R)	14
Richard Polanco (D)	18
Don Rogers (R)	17

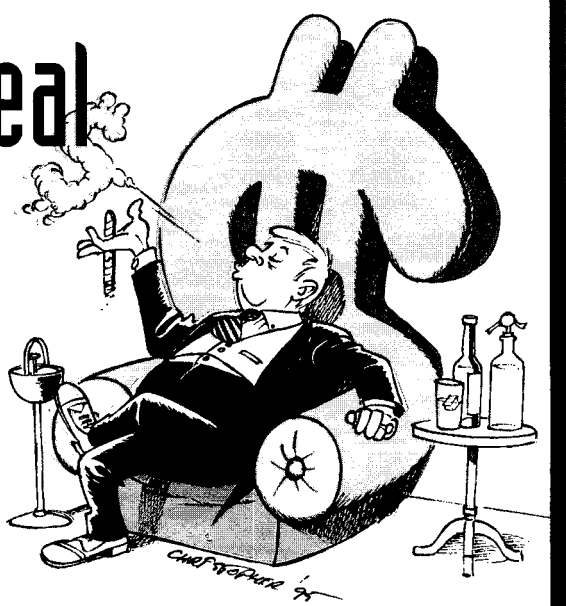
ASSEMBLY

20–year vets	**Years***
Tom Bates	20
Wille Brown Jr.	32
John Vasconcellos	30

Needs Senate term(s)	
Doris Allen (R)	14
John Burton (D)	17
Bob Campbell (D)	16
Dom Cortese (D)	16
Tom Hannigan (D)	18
Trice Harvey (R)	10
Dan Hauser (D)	14
Phil Isenberg (D)	14
Richard Katz (D)	16
Willard Murray Jr. (D)	8
Byron Sher (D)	16
Jackie Speier (D)	10
Curtis Tucker Jr. (D)	7

* service at end of current term limit

The deal



Here's how the retirement pay system works for legislators elected prior to 1990:

• If a member has between 15 years and 20 years service, he or she may draw a pension upon leaving office at any age. There is a 2% reduction for every short of age 60.

• If his or her service totals 21 years, four months and 21 days (or more), he or she may receive a full pension at any age upon leaving elected office.

• If his or her service falls below the maximum but is at least 20 years, the monthly pension is $3750.

• A full pension is two–thirds of the member's highest pay while in office. For example, the current base pay for a legislator is $72,000. Those who serve in leadership positions get more. Assm. GOP Ldr. Jim Brulte, for instance, earns $79,200 and Assm. Spkr. Willie Brown Jr. (D–San Francisco) gets $86,400.

• Retired lawmakers get full health benefits for life.

• Lawmakers' pensions increase each year by an amount equal to the current inflation rate. Other state employees, including teachers, are limited to either 2 percent or 3 percent increases.

— *Ray Sotero*

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Currently, 32 senators and 16 Assembly members who were elected prior to 1990 are eligible for benefits under the old retirement system (see chart, page 40).

Written by lawmakers for lawmakers in the late 1960s and early '70s, the system essentially allows any assemblyman, state senator or constitutional officer elected before 1990 and with 20 years service immediately to collect, at any age, nearly $4000 a month for life, plus full health benefits. And it's guaranteed to keep pace with inflation. That nifty package may prompt some lawmakers forced by term limits to leave office shy of 20 years service to seek another state elected position. For example, it is estimated that a half–dozen senators, including Leonard, are considering running for the Assembly after term limits boot them from the upper house. Even though they would be elected to post–Proposition 140 terms in the Legislature, sources say those who served prior to 1990 are grandfathered into the retirement system, allowing them to add post–term limit service to their accumulation of years toward a pension. Next year, for example, when Leonard completes his maximum tenure in the Senate, he will have 18 years with the state and would have to wait until age 60 to collect his full $4000 monthly pension. If, however, Leonard chose to run for the Assembly seat he held from 1978 to 1988, and served one two–year term, he could immediately collect $3750 a month because he would have 20 years service. And if he were to serve at least part of a second additional term in the Assembly, or accrued 21 years and four months service, he would qualify for the immediate $4000 monthly pension.

Leonard said he has made no decision on whether he will seek the Assembly seat, but acknowledged he is considering it. He insists the financial incentive is not a motivation on whether to run.

"My goodness, it does add up," Leonard said when told of the pension figures, of which he claimed he was unaware.

> "In some instances the elimination of legislator pensions polled greater than term limits." — Lewis Uhler

"But it has not been a career consideration."

Leonard, who opposed the term–limit initiative (Proposition 140) voters passed overwhelmingly in 1990, admitted the LRS is quite ample, but his right to collect. "I think all public pensions are overly generous and should be restructured to be more similar to the private sector," Leonard said. "[But] I'll abide with the rules even as I might work to change the rules."

Leonard has introduced no bills in recent years addressing lawmaker pensions, his office said. But Assemblyman John Burton (D–San Francisco) has proposed a measure that would provide pensions for lawmakers elected in 1990 and after. Its first hearing has not been scheduled. "They're the

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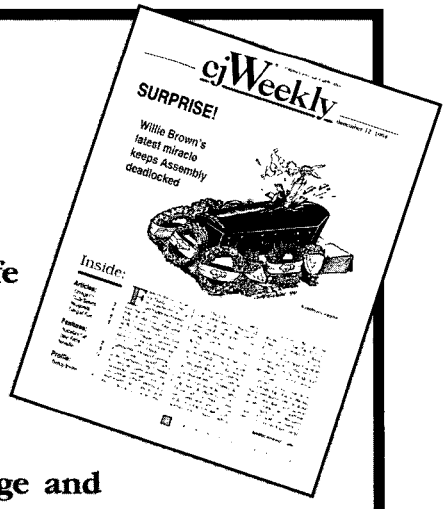

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only employees in the state of California that cannot participate in the state employees retirement system. I think they should have that opportunity," said Burton, who will be term–limited out in 1996 with 17 years service, spanning two separate terms in the Assembly. He also is said to covet a Senate seat being vacated in 1996 by Democrat Milton Marks.

Critics believe the pre–1990 system goes too far, and it would be prove unpopular with the public to do anything for post–1990 lawmakers. In addition, state records show the LRS has an unfunded liability — the difference between contributions and the amount taxpayers are obligated to pay — of $19 million.

"One of the things that certainly has cast a bad light on legislators and simply reinforces the public's general disregard for the Legislature is their formerly very fancy retirement package, and rightly so," said Ruth Holton, executive director of California Common Cause, a non–profit public watchdog group. "This isn't the kind of retirement system the average person gets. The public sees it as inherently unfair, and it's their tax dollars and they're upset about it. A reasonable retirement system is fair. But this..."

Peter Schabarum, the former assemblyman and Los Angeles County supervisor who led the fight to pass Proposition 140, said lawmakers earn too much, and that the intent of the voter–approved measure was to see fresh blood elected to the Legislature. "To go back to the voters and ask to be elected to the other house is something I hope the voters recognize and don't support," Schabarum said.

Lewis Uhler, president of the National Tax–Limitation Committee, said if there appears to be musical chairs among members, it may be time to launch another initiative. "In some instances the elimination of legislator pensions polled greater than term limits," Uhler said about Proposition 140. "People hate what they sense is personal profiteering at the expense of the taxpayers."

Bob Connelly, co–chief administrative officer of the Assembly, said the purpose of what he called a cushy retirement plan was to provide income to dedicated public servants who had passed up other career opportunities. "They might have a hard time finding a job," Connelly said. "They were out of the business loop, out of their law practice or whatever, so they lost out on many of the contacts they might have had."

But at least one former assemblyman, Republican Tom McClintock of Sherman Oaks, thinks that's a lot bunk. "I never participated in it because I thought it was an unmitigated ripoff," said McClintock, who served 10 years in the Assembly and now is a policy analyst for the Claremont Institute. "They set the rules and they profit by it."

At least one current member agrees. Freshman Assemblyman Brett Granlund (R–Yucaipa) said he left a $140,000–a–year job to serve in the Assembly at half the pay because lawmakers should be public servants, not profiteers. "Four thousand dollars in my mind is abusive," Granlund said. Public pensions "should provide stability in your senior, less–productive years and an ability to maintain a reasonable standard of living. I've long been critical of the ability of those who retire on tax dollars to do it at such a young age."

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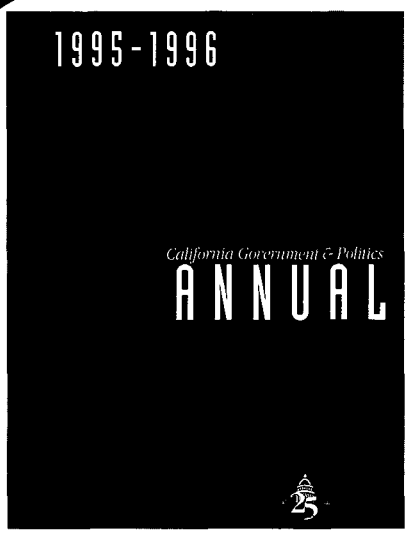

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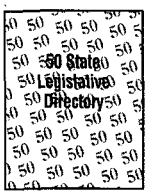

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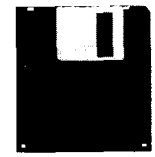

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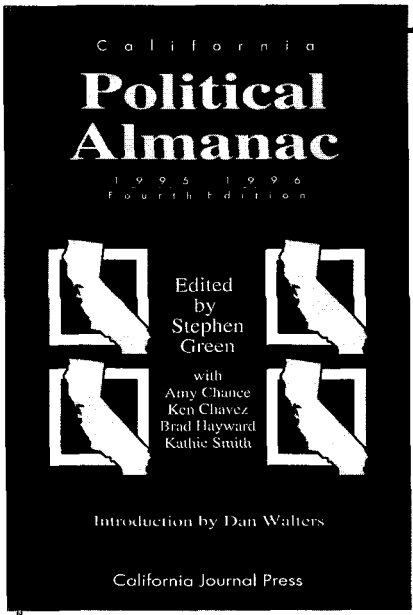

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Washington
PERSPECTIVE

By Meredith K. Wadman

Affirmative action bites the president

For President Bill Clinton, there is just no silver lining in the affirmative–action cloud. It's bad enough that nationally the issue is threatening to tear up his party, putting the president on the defensive and giving Republican presidential contenders grist for their campaign mills.

BUT IN THE GOLDEN STATE, WHICH CLINTON MUST win if he is to have a hope of re–election, affirmative action poses a near–insoluble dilemma. It comes packaged as the California Civil Rights Initiative (CCRI), a nascent measure by two Bay Area academics that looks increasingly certain to win a spot on the November 1996 ballot. It would bar the state, its colleges and its contractors from doling out jobs, contracts, promotions or school spots based on race or sex. Recent polls show voters approve it overwhelmingly.

If he firmly opposes the CCRI, as he did the 1994 Proposition 187, Clinton risks alienating whites, such as those who deserted the Democrats in droves last November — swing voters he must hold in order to carry the state. But if he carves out what moderate Democrats have optimistically labeled a "third way," fine–tuning affirmative action but not jettisoning it, he could infuriate his core liberal constituency.

The president's dilemma — and the popular appeal of the issue — have not been lost on Republican presidential contenders, who are racing to out–tough each other on affirmative action. Texas Senator Phil Gramm has vowed to abolish preferences, quotas and set–asides on his first day in office. Conservative commentator Pat Buchannan has railed against such policies as "un–American." Former Tennessee Governor Lamar Alexander told network television that he wants Congress to end affirmative action. And Governor Pete Wilson has taken the highly unusual step of endorsing the CCRI before it has even qualified for the ballot. Wilson also is searching state agencies for rules that he can rescind by executive order. And he has moved to dissolve the state's women– and minority–dominated advisory councils.

Then there is front–running Senate Majority Leader Robert Dole. Not to be outflanked on the right, the Kansas Republican has called for a broad review of all federal preference programs. He has instructed key committees to hold hearings. And he has said he will introduce legislation this year to repeal federal racial and gender preferences and set–asides. That, and accompanying House legislation, closely modeled on the CCRI, could see floor action in both chambers before the year is out.

Any bill that Congress passes would likely present Clinton with an unappealing choice: use his veto to the chagrin of crucial swing voters; or sign a bill and alienate loyal liberals such as the Reverend Jesse Jackson, who has said that he might mount an independent challenge to Clinton's re–election if Jackson doesn't like the president's position.

Meanwhile, the state ballot measure would put the president at risk no matter what Republican challenger he faces in 1996. A March *Los Angeles Times* poll showed two–thirds of voters favoring the CCRI. Even among Democrats, a majority supported it.

As if all that weren't enough, the president faces a rapidly–hardening schism among Washington Democrats. "Let me remind individuals who think that affirmative action will go down quietly that that is not the case," warned Congressman Kwesi Mfume, a Maryland Democrat and the former chairman of the Congressional Black Caucus, when the House in February overwhelmingly approved a bill killing lucrative preferences for minority broadcasters.

"My anxieties will not be relieved until the president goes on national TV and offers a clear and authoritative statement" defending affirmative action, Jackson declared after a March White House meeting intended to pacify the minority and feminist activists who attended it.

But on the same day, Senator Joseph Lieberman (D–Connecticut), chairman of the centrist Democratic Leadership Council, labeled group preferences "patently unfair." And more recently, a key group of 23 conservative House Democrats refused point blank to join a leadership task force on the issue.

Clinton has bought himself some time by handing the issue to aides who since February have been conducting an "intense, urgent" review of more than 160 federal affirmative action programs. Meanwhile, he has lost no opportunity to make sympathetic noises aimed at white men. "We shouldn't be defending things that we can't defend," he said, shortly after announcing the review. "This is psychologically a difficult time for the so–called angry white males," he reminded California Democrats at their April convention.

Moderate Clinton advisers in a divided White House are hoping that some kind of middle ground will emerge. The administration has talked of extending preferences to disadvantage whites, and of restricting preferences for wealthy minorities. It has also made it clear it will not dismantle affirmative action.

"I MAY BE CRAZY, BUT I WOULD LOVE TO SEE THIS president campaigning in California for a third way, saying 'I reject the polarizers on both sides'" said Will Marshall, president of the Progressive Policy Institute, the policy arm of Democratic Leadership Council.

Opponents, however, insist that there is no third way.

"The so–called middle ground he is pushing is untenable," said Arnold Steinberg, the chief strategist of the CRRI.

"If the president is seeking a magical 'third way,' I suspect he's going to run into a dead end," said Dole.

Only time will tell if they are right.

Meredith Wadman is Washington correspondent for The Oakland Tribune and *The Alameda Newspaper Group.*

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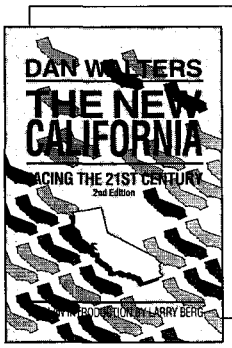

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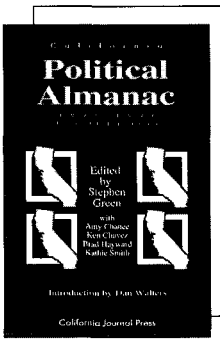

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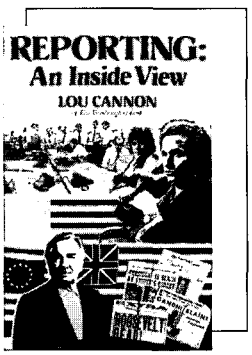

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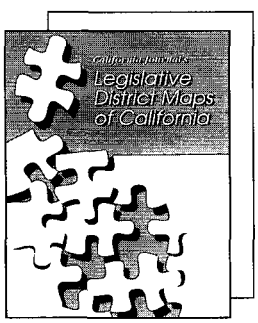

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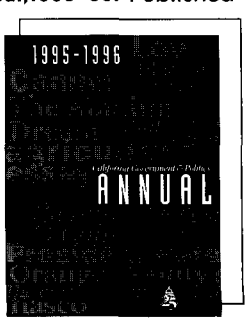

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